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JOURNAL  
OF THE  
KENTUCKY SENATE  
OF THE  
COMMONWEALTH OF KENTUCKY

Regular Session, 1938

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VOL. I

Held in the State Capitol, in the Capital City of Kentucky,  
at Frankfort, in the year of Our Lord 1938 and in the  
One Hundred and Forty-Sixth Year  
of the Commonwealth.

Begun on the Fourth day of January, 1938 and adjourned  
sine die on the First day of March, 1938.

---

V. A. PHILLIPS, *Chief Clerk*

O. L. BOZEMAN, *Assistant Clerk*

---

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JOURNAL  
OF THE  
KENTUCKY SENATE

TUESDAY, JANUARY 4, 1938

At a General Assembly of the Commonwealth of Kentucky, begun and held at the Capitol, in the city of Frankfort, on Tuesday, the fourth day of January, in the Year of Our Lord, One Thousand Nine Hundred and Thirty-eight, and the one hundred and forty-sixth year of the Commonwealth, that being the day fixed by the Constitution for the meeting thereof, the Honorable Keen Johnson, Lieutenant Governor of the Commonwealth of Kentucky and President of the Senate, called the Senate to order, and after prayer by the Reverend Fred T. Moffatt, pastor of the First Baptist Church, Frankfort, V. A. Phillips, Assistant Clerk of the Senate during the session of the General Assembly last passed, produced and read the following certificate from the Secretary of State, viz.:

COMMONWEALTH OF KENTUCKY

OFFICE OF SECRETARY OF STATE

I, CHARLES D. ARNETT, Secretary of State for the Commonwealth of Kentucky, do certify that, based upon records and information furnished me, the following appear to be legally elected members of the Senate, on this the 4th day of January, 1938:

DISTRICT	NAME	ADDRESS
1st.....	McDonald, John W.	Mayfield, Kentucky
2nd.....	Melton, Strother	Paducah, Kentucky

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DISTRICT	NAME	ADDRESS
3rd.....	Turner, T. O. ....	Murray, Kentucky
4th.....	Sugg, John A., Jr. ....	Morganfield, Kentucky
5th.....	King, Leo .....	Henderson, Kentucky
6th.....	Whitfield, O. C. ....	Madisonville, Kentucky
7th.....	White, Otis (R) .....	Morgantown, Kentucky
8th.....	Gibson, Lee .....	Owensboro, Kentucky
9th.....	Moore, J. Lee .....	Franklin, Kentucky
10th.....	Basham, Paul M. (R) ....	Hardinsburg, Kentucky
11th.....	Moss, Dr. R. C. ....	Rockfield, Kentucky
12th.....	Wise, J. E. ....	Elizabethtown, Kentucky
13th.....	Tackett, Joe P. ....	Prestonsburg, Kentucky
14th.....	Dawson, Edwin C. ....	New Haven, Kentucky
15th.....	Wesley, E. T. (R) .....	Somerset, Kentucky
16th.....	Farmer, W. C. (R) .....	Albany, Kentucky
17th.....	Moss, Ray B. (R) .....	Pineville, Kentucky
18th.....	Moore, E. C. ....	Liberty, Kentucky
19th.....	Jones, W. H., Jr. (R).....	Glasgow, Kentucky
20th.....	Bowen, Ollie .....	Lawrenceburg, Kentucky
21st.....	Gilbert, Ralph .....	Shelbyville, Kentucky
22nd.....	Hall, John M. ....	Stamping Ground, Ky.
23rd.....	Trager, John E. ....	Louisville, Kentucky
24th.....	Rogers, James C. ....	Erlanger, Kentucky
25th.....	Barbour, Aubrey .....	Newport, Kentucky
26th.....	Sidebottom, Paul L. ....	Williamstown, Kentucky
27th.....	Buckley, Leer (R) .....	Lexington, Kentucky
28th.....	Bush, D. H. ....	Mt. Sterling, Kentucky
29th.....	Wolfenbarger, J. M. (R).....	Irvine, Kentucky
30th.....	Blake, H. Stanley .....	Carlisle, Kentucky
31st.....	Crockett, Waller Allen.....	Maysville, Kentucky
32nd.....	Hillman, H. Watt .....	Lawton, Kentucky
33rd.....	Williams, B. M. (R) .....	LeJunior, Kentucky
34th.....	Turner, Ervine .....	Jackson, Kentucky
35th.....	See, Ira W. (R) .....	Louisa, Kentucky



DISTRICT	NAME	ADDRESS
36th.....	Mayer, Stanley B. ....	Shively, Kentucky
37th.....	Hettinger, J. Joseph .....	Louisville, Kentucky
38th.....	Attkisson, William R. ....	Louisville, Kentucky

28 Democrats.

10 Republicans.

All Democrats except those marked (R).

(Signed) CHARLES D. ARNETT,  
*Secretary of State*

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	J. Joseph Hettinger	Paul L. Sidebottom
Aubrey Barbour	H. Watt Hillman	John A. Sugg, Jr.
Paul M. Basham	Wm. H. Jones, Jr.	Jos. P. Tackett
H. Stanley Blake	Leo King	J. E. Trager
Ollie J. Bowen	J. W. McDonald	Ervine Turner
Leer Buckley	Stanley B. Mayer	Thomas O. Turner
Dr. D. H. Bush	Strother Melton	E. T. Wesley
Waller A. Crockett	E. C. Moore	Otis White
Edwin C. Dawson	J. Lee Moore	O. C. Whitfield
W. C. Farmer	Dr. R. C. Moss	B. M. Williams
Lee Gibson	Ray B. Moss	J. E. Wise
Ralph Gilbert	James C. Rogers	J. M. Wolfinbarger
John M. Hall	Ira W. See	

Thereupon the following Senators produced their certificates of election and took the several oaths required by the Constitution and the laws of the Commonwealth of Kentucky, the oaths being administered by Justice Augustus Thomas of the Court of Appeals of Kentucky, viz.:

Attkisson, William R., Thirty-eighth Senatorial District.

Barbour, Aubrey, Twenty-fifth Senatorial District.

Basham, Paul M., Tenth Senatorial District.

Blake, H. Stanley, Thirtieth Senatorial District.

Bowen, Ollie J., Twentieth Senatorial District.  
Bush, Dr. D. H., Twenty-eighth Senatorial District.  
Dawson, Edwin C., Fourteenth Senatorial District  
Farmer, W. C., Sixteenth Senatorial District.  
Gibson, Lee, Eighth Senatorial District.  
Hall, John M., Twenty-second Senatorial District.  
Hillman, H. Watt, Thirty-second Senatorial District.  
Mayer, Stanley B., Thirty-sixth Senatorial District.  
Melton, Strother, Second Senatorial District.  
E. C. Moore, Eighteenth Senatorial District.  
Rogers, James C., Twenty-fourth Senatorial District.  
Sidebottom, Paul L., Twenty-sixth Senatorial District.  
Sugg, John A., Jr., Fourth Senatorial District.  
Turner, Ervine, Thirty-fourth Senatorial District.  
Whitfield, O. C., Sixth Senatorial District.  
Wise, J. E., Twelfth Senatorial District.

Senator J. E. Wise moved that the privilege of the floor be extended to Messrs. Ed Lyons and Eugene Foushe.

Said motion was unanimously agreed to.

Senator J. C. Rogers moved that the privilege of the floor be extended to Mrs. Rogers, Miss Laura Frances Rogers, Miss Louise Rogers and Miss Hannah Fleming, Secretary to Senator Rogers.

Said motion was unanimously agreed to.

Senator J. E. Trager moved that the privilege of the floor be extended to Messrs. Edward Brennan, J. Beckner and Mr. Crave.

Said motion was unanimously agreed to.

Senator William Henry Jones, Jr., moved that the priv-

ilege of the floor be extended to Mrs. P. M. Basham, Mr. Tom Basham and Mrs. Jane Basham, wife of Senator Basham, and Mr. W. C. Pate.

Said motion was unanimously agreed to.

Senator J. E. Wise moved that when the Senate adjourn today, it do so out of veneration and respect for Senator Ralph Gilbert who today became the grandfather of a son born to Mr. and Mrs. Roger Wells of Cave City, Kentucky.

Said motion was unanimously agreed to.

The Honorable Keen Johnson, Lieutenant Governor and President of the Senate, then announced that the election of the Chief Clerk of the Senate of Kentucky was in order.

Senator E. C. Moore named the Honorable Sherman Goodpaster of the County of Bath as a suitable person to fill said office.

There being no further nominations for said office, V. A. Phillips, Acting Chief Clerk of the Senate, was unanimously directed by the Senate to cast one vote on behalf of the entire Senate for the party above named to fill said office.

The Acting Chief Clerk, having cast one vote for the Senate as above directed, the President of the Senate declared Mr. Goodpaster duly elected to the office of Chief Clerk of the Senate of Kentucky.

Thereupon Mr. Goodpaster appeared before the bar of the Senate and took the oath of office as required by the Constitution and laws of Kentucky, which was administered by Justice Augustus Thomas of the Court of Appeals of Kentucky.



Whereupon the President of the Senate vacated the chair.

Mr. Goodpaster, Chief Clerk of the Senate, then took the chair and announced that nominations for President Pro Tem of the Senate were in order.

Senator E. C. Moore named Senator Edwin C. Dawson of the County of Nelson as a suitable person to fill said office.

Senator Ira W. See named Senator Ray B. Moss of the County of Bell as a suitable person to fill said office.

There being no further nominations for the office of President Pro Tem of the Senate, and the vote being taken thereon, resulted as follows, viz.:

Those who voted for Senator Edwin C. Dawson were:

Wm. R. Attkisson	H. Watt Hillman	Paul L. Sidebottom
Aubrey Barbour	Leo King	John A. Sugg, Jr.
H. Stanley Blake	J. W. McDonald	Jos. P. Tackett
Ollie J. Bowen	Stanley B. Mayer	J. E. Trager
Dr. D. H. Bush	Strother Melton	Ervine Turner
Waller A. Crockett	E. C. Moore	Thomas O. Turner
Lee Gibson	J. Lee Moore	O. C. Whitfield
Ralph Gilbert	Dr. R. C. Moss	J. E. Wise
John M. Hall	Ray B. Moss	
J. Joseph Hettinger	James C. Rogers	

Those who voted for Senator Ray B. Moss were:

Paul M. Basham	Wm. H. Jones, Jr.	B. M. Williams
Leer Buckley	Ira W. See	J. M. Wolfenbarger
Edwin C. Dawson	E. T. Wesley	
W. C. Farmer	Otis White	

Senator Edwin C. Dawson having received a majority of the votes cast, a majority of all the members elected being

present and voting, was declared by the presiding officer to be duly elected President Pro Tem of the Senate.

The Chief Clerk thereupon vacated the chair and the President of the Senate resumed the chair and presided.

The President of the Senate then announced that nominations for the office of Floor Leader were in order.

Senator E. C. Moore named Senator Ralph Gilbert as a suitable person for said office.

There being no further nominations, Senator Gilbert was declared the duly elected Majority Floor Leader by the President of the Senate.

The President of the Senate then announced that nominations for the office of Assistant Clerk of the Senate were in order.

Senator E. C. Moore named V. A. Phillips of Princeton, Kentucky, as a suitable person to fill said office.

There being no further nominations for said office, the Chief Clerk of the Senate was unanimously directed by the Senate to cast one vote on behalf of the entire Senate for the party above named to fill said office.

The Chief Clerk having cast one vote for the Senate as above directed, the President of the Senate declared Mr. Phillips duly elected to the office of Assistant Clerk of the Senate of Kentucky.

The President of the Senate then announced that nominations for Enrolling Clerk of the Senate were in order.

Senator E. C. Moore named Mrs. Mathews Collins as a suitable person to fill said office.

There being no further nominations, the Chief Clerk of the Senate was unanimously directed by the Senate to cast one vote on behalf of the entire Senate for the party above named to fill said office.

The Chief Clerk having cast one vote for the Senate as above directed, the President of the Senate declared Mrs. Collins duly elected to the office of Enrolling Clerk of the Senate.

The President of the Senate then announced that nominations for Sergeant-at-Arms were in order.

Whereupon, Senator E. C. Moore named Clyde Saylor of Harlan County as a suitable person to fill said office.

There being no further nominations, the Chief Clerk of the Senate was unanimously directed by the Senate to cast one vote on behalf of the entire Senate for the party above named to fill said office.

The Chief Clerk having cast one vote for the Senate as above directed, the President of the Senate declared Mr. Saylor duly elected Sergeant-at-Arms of the Senate.

The President of the Senate then announced that nominations for Doorkeeper were in order.

Whereupon, Senator E. C. Moore named Clark Esham as a suitable person to fill said office.

There being no further nominations, the Chief Clerk of the Senate was unanimously directed by the Senate to cast one



vote on behalf of the entire Senate for the party above named to fill said office.

The Chief Clerk having cast one vote for the Senate as above directed, the President of the Senate declared Mr. Esham duly elected to the office of Doorkeeper of the Senate.

The President of the Senate then announced that nominations for Janitor were in order.

Senator E. C. Moore named Boyce Jewell as a suitable person to fill said office.

There being no further nominations, the Chief Clerk of the Senate was unanimously directed by the Senate to cast one vote on behalf of the entire Senate for the party above named to fill said office.

The Chief Clerk having cast one vote for the Senate as above directed, the President of the Senate declared Mr. Jewell duly elected to the office of Janitor of the Senate.

The President of the Senate then announced that nominations for Cloakroom Keeper were in order.

Senator E. C. Moore named H. A. Grove as a suitable person to fill said office.

Thereupon, there being no further nominations, the Chief Clerk of the Senate was unanimously directed by the Senate to cast one vote on behalf of the entire Senate for the party above named to fill said office.

The Chief Clerk having cast one vote for the Senate as above directed, the President of the Senate declared Mr. Grove duly elected to the office of Cloakroom Keeper of the Senate.

The President of the Senate then announced that nominations for Pages were in order.

Senator E. C. Moore named Helen Donald Blake, Johnny Crockett and Billy Nave as suitable persons to fill said offices.

There being no further nominations, the Chief Clerk of the Senate was unanimously directed by the Senate to cast one vote on behalf of the entire Senate for the parties above named to fill said offices.

The Chief Clerk having cast one vote for the Senate as above directed, the President of the Senate declared Helen Donald Blake, Johnny Crockett and Billy Nave duly elected Pages of the Senate.

Thereupon, all of the said officers above named appeared before the bar of the Senate and took the oath of office as required by the Constitution and laws of Kentucky, which oath was administered by Justice Augustus Thomas of the Court of Appeals of Kentucky.

Senator Ralph Gilbert offered the following resolution, viz.:

S. RES. 1.

*Be it Resolved by the Senate of Kentucky:*

That the President of the Senate be authorized and directed to appoint a Committee of five members to notify the House of Representatives that the Senate is organized and ready for business and that they meet with a like Committee to be appointed by the Speaker of the House and that said Joint Committee call on the Governor of the Commonwealth of Kentucky and notify him that this General Assembly is duly organized and ready to receive any message that he may desire to deliver, fixing the time and place.

Said resolution was adopted.

Thereupon, the President of the Senate, as above directed, announced the following as members constituting said Committee: Senator Ervine Turner, Senator J. E. Trager, Senator Paul L. Sidebottom, Senator John M. Hall and Senator D. H. Bush.

Senator Gilbert moved that the Senate do now recess until 2:00 P. M., at which time it reconvene, and proceed to the chamber of the House of Representatives for the purpose of hearing the message to be delivered by the Governor.

Said motion was agreed to.

Whereupon the Senate recessed.

The hour of 2:00 P. M. having arrived, the Senate reconvened and was called to order by the President of the Senate.

Whereupon, in accordance with the motion heretofore agreed to, in order the Senate proceeded to the House of Representatives, where in order they entered upon the floor of the House chamber and the Honorable Keen Johnson, Lieutenant Governor and President of the Senate, took the Chair and presided, and the Honorable John Kirtley, Speaker of the House of Representatives, having taken his seat on the right of the President of the Senate, the two Houses were convened in Joint Session which was composed of a majority of all the members elected to each House.

Without objection the call of the roll of the two Houses was dispensed with.

After a time the Committee heretofore appointed on the part of the Senate and the Committee heretofore appointed

on the part of the House of Representatives, to wait upon the Governor, appeared upon the floor of the House with His Excellency, Albert Benjamin Chandler, Governor of the Commonwealth of Kentucky, who addressed the General Assembly in Joint Session, as follows, viz.:

MR. PRESIDENT, MR. SPEAKER, AND MEMBERS OF THE  
GENERAL ASSEMBLY OF KENTUCKY:

In obedience to the mandate of the Constitution it becomes my duty as Governor of the Commonwealth to appear before you at the commencement of the Biennial meeting of the 102nd Regular Session of the General Assembly of Kentucky to give to you information concerning the state of the Commonwealth and to recommend for your consideration such measures as are deemed necessary for the promotion of the general welfare of all of the people of our State.

Each of you is to be congratulated upon the opportunity that has been given you to serve your people as a member of the Legislature. The men and women of your respective counties and districts are depending upon you to represent them not selfishly but in the interest of every citizen of Kentucky.

During the last two years much progress has been made in the solution of the problems of our people, but there is much still undone, and it is my desire upon this occasion not to take too much time in applauding the achievements of the past, but rather to point to the problems of the future which remain by us unsolved.

I assume that all of you who have served before as members of the Legislature and, because of your good record have been returned here will want to continue to be a part of an administration of public affairs that during the last two years has won generally the approval of our fellow citizens. Many of you who are present for the first time as members of the Assembly were elected with the definite understanding that you would lend your energies and active sup-



port to the advancement of decent and clean government within the Commonwealth and that you would give your earnest support to the present administration.

This is the second time, as Governor of the Commonwealth, I have had the honor to address the General Assembly in its regular session.

We have come a long way since 1936, and in order to present to you a true picture of the facts and conditions surrounding the operation of the State government it is important that I make some comparisons.

### FINANCIAL SITUATION

In 1908, when Governor Beckham retired from the office of Governor of Kentucky, the State owed no debts and more than a million dollars were on deposit in the banks to the credit of the State. Prior to 1914 the debt of the State was approximately \$6,000. In 1931 when the Administration which we succeeded took office the State debt was \$13,163,652.19. On January 1, 1936, a few days after the present Administration took office, the debt amounted to \$25,232,913.33. This indebtedness was evidenced by interest bearing warrants issued against the casual treasury deficits and carried an interest charge of 5%, which amounted to nearly \$1,300,000 a year. The debt increased during the first few months of 1936 because it was necessary to repeal the general retail sales tax in order to keep a definite promise made in the campaigns of 1935. On January 15, 1936, the repeal of the general sales tax became effective. Thus it will be seen that at the start the present administration lost the major revenue producing measure upon which the State had theretofore relied.

The mounting debt which had grown tremendously during the preceding administration was finally stopped when the warrant indebtedness in February, 1936, reached its peak of nearly \$26,000,000. There were other debts accumulated by the preceding administration, and not evidenced by any out-

standing warrants, in the sum of approximately \$2,000,000. Thus the present administration faced a financial crisis with a debt of nearly \$28,000,000 with the chief revenue producing measure repealed in response to a mandate of the people.

It was necessary to act swiftly. I asked the Legislature to immediately reorganize the government of the State. Such a reorganization had been pledged in every political campaign during the present generation, but actually nothing had been accomplished in this direction.

I appointed a Governor's Commission. This body carefully and thoughtfully prepared the Reorganization Bill, which later was passed by the 1936 Legislature and became effective in July of that year. I employed experts in public administration service to help us set up in Kentucky correct procedure for the operation of the State government, making good use of the Legislature's \$120,000 appropriation. Definite and certain progress has been made in this work. It is not yet completed, but it continues to go steadily forward and, within a very short time, I believe that this State will be able to offer to the people of America the most complete and best organized system of government that is enjoyed by any state in the Union.

Some of our boards and commissions are already nearly perfectly organized, and I shall speak more fully with respect to these a little later on.

The interest charge of the State debt has been reduced under a plan worked out by the Governor and the Treasurer, and agreed upon by the Supreme Court of the Commonwealth. Through voluntary exchange the State now pays 3% interest on its outstanding warrants instead of 5% as formerly paid.

During the last two years through the effective reorganization of the government by the Legislature, Kentucky for the first time since 1908 has been able to offer to its people a balanced budget. The State has lived within its income. Last year we underspent the budget by \$1,750,000 because of

the close supervision of the expenditure of money by the Department of Finance created by the Reorganization Bill of 1936. Prior to 1936, Kentucky State 5% interest bearing warrants sold as low as 70 in the open market and salary checks of teachers and others who worked for the Commonwealth or who furnished goods or services were discounted because of the failure of the State to provide a sound system of financial control.

I am pleased to report to you and to the people that this State's obligations have been paid in cash since 1936 and not a single warrant issued by the State of Kentucky since this Administration took office has been discounted; that warrants are now bearing 3% interest and are selling above par on the markets, and some are worth as high as 102; that the State is discounting its bills and has been able, in addition to meeting all of its obligations in cash, to reduce the outstanding warrant indebtedness from nearly \$26,000,000 as of February 1, 1936, to approximately \$10,000,000 as of January 4, 1938.

### TAX STRUCTURE

Two years ago, I told you that the tax structure of the State had grown up in patchwork fashion, and that it was important that Kentucky reorganize its tax measures. I told you that it was my firm conviction that taxes should be paid by the citizens of the State in accordance with their ability to pay and that taxes should be levied and collected at a time and in a manner that would cause the least inconvenience to the people; that the levy should be no greater than absolutely necessary to maintain public credit and public necessities.

In accordance with the provisions of the Reorganization Bill a Department of Revenue and Taxation was created. I named as Commissioner of Revenue Dr. James W. Martin, borrowed by me from the University of Kentucky.

During 1936 and 1937 the Revenue Department collected the taxes which were owed by the taxpayers under existing revenue laws and covered those taxes so collected into the



treasury at a total cost of 1%, which was an outstanding record in all of the United States. In 1935, the Department of Revenue had 336 tax collectors. In 1937, the Department had 135 collectors, yet made this outstanding record in tax collection.

In order to see what an effective job the Tax Department has been able to do you should compare the cost of collecting taxes in Kentucky with the cost of collecting similar taxes in California, Massachusetts and Oklahoma. It cost the people of those states from 8/10 of 1% to 2.3% more to collect the same taxes.

The Reorganization Act has been so effective that I have not heard one suggestion from the people of the State that it should be changed or altered in any particular, and I therefore recommend to you that you permit no change to be made in it.

### SINGLE PRIMARY

Our people were agitated over the right to vote in free and open primary elections in the campaigns of 1935. I expressed the opinion in February of that year that the right to vote in a free and open primary was fundamental and should not be denied.

The Legislature in response to my request passed in 1936 a single primary law to take the place of the double-barrel or run-off primary which was in effect the previous year.

I renew my pledge to the people to keep for them the single primary law, and I recommend that no change be made by you.

### STATE-WIDE REGISTRATION LAW

In connection with the primary law State-wide registration was desired in order to secure fair elections. For many years the need for such a law had been apparent. At my special insistence the 1936 Legislature passed a State-wide registration bill.

This law has done all that its friends hoped it would be

able to do to bring about fair elections in this State. I respectfully urge that no change be made in it.

### STATE CARRIES OWN INSURANCE

At my request the Legislature in 1936 passed an act authorizing the State to carry its own insurance. Many people had seen the wisdom of such a course.

I desire now to report to you the progress made under this wise law. The income to the fund under the provisions of this Act from its effective date on February 20, 1936, to December 24, 1937, was \$271,355.80. The losses paid from July 1, 1937, to December 24, 1937, amounted to \$8.41. Reinsurance premiums amounted to \$10,645. Unearned premium reserve amounted to \$22,238.57, leaving a surplus in the fund as of December 24, 1937, in the amount of \$238,354.41. Many times this amount has been paid to insurance companies in Kentucky through the years, much of it in premiums on fireproof buildings. This represents a clear saving to the Commonwealth, and I recommend that the present law be not altered in any particular.

### SALE OF LIQUOR IN THE STATE

The Legislature should give careful consideration to the enactment of a law that will effectively regulate and control the sale of intoxicating liquor in this Commonwealth.

It is my judgment that no law should be passed which would alter the right of the people to decide for themselves where liquor may be sold.

The interest of the Administration in the passage of a liquor law is twofold: First, that the law be passed in such a way as to effectively guarantee the regulation and control of the sale of liquor. Second, that the supervision of the liquor control law in the State be placed directly under Dr. James W. Martin, Commissioner of Revenue. Only in this way can the Commonwealth be assured of the taxes which are properly collectible and owed to the State.

## CONSERVATION

The Reorganization Act provided for a Department of Conservation under which are grouped the Division of Parks, the Division of Game and Fish, the Division of Forestry and the Division of Publicity.

We feel that this new arrangement provides a workable and intelligent method of effectively grouping agencies with similar functions. The Honorable Charles Fennell has worked efficiently and helpfully since his appointment as Commissioner of Conservation.

The Division of Parks under the Honorable Bailey P. Wootton is doing a very fine job in improving Kentucky's playgrounds and spots of scenic and historic interest.

The Division of Forestry under the Honorable Kenneth G. McConnell is working diligently to preserve the State's forests and to prevent losses from fire.

## GAME AND FISH

The Game and Fish Commission, reorganized by the Legislature in accordance with my specific request in 1936, has done an excellent job for the benefit of those who are sincerely interested in the preservation of our wildlife.

The revenues have gone up from \$124,000 in 1935 to \$141,000 in 1937. The Commission has a full-time field force of 41 wardens. Fish hatcheries are being operated at Glasgow, Ashland, Williamsburg, Glenn Spring and Herrington Lake. In 1937 more than 553,000 fingerlings or larger fish were planted in the public waters of the State.

Through the Commission and Major James Brown, Director of the Department, close cooperation with the U. S. Bureau of Public Fisheries has been established, and it is my belief that real progress has been made in this Department during the last two years.

## PUBLICITY

The Department of Publicity prescribed by the Reorganization Act began functioning early in 1937. Under the direc-

tion of the Honorable G. M. Pedley a handsome magazine entitled "In Kentucky", describing the State's attractions, has been issued quarterly.

It is interesting to note that the material in this magazine has been prepared by the Director and one office assistant who are doing approximately the same work as was formerly performed by a staff of eight persons for the old Kentucky Progress Magazine.

This publication has gone to every state and to many foreign countries and has been highly complimented in every quarter.

### SCHOOLS

During the campaigns of 1935 the public school per capita became an issue. All candidates for office during that year avowed, if elected, they would provide for the maintenance and operation of the public schools a sum equal to at least \$12.00 per capita. On the sixth day of January, 1936, as the successful candidate, I said this in my message: "Kentucky has greatly improved its school system in the last few years. This Legislature should make certain that the public schools have as much as \$12.00 per capita for the payment of teachers' salaries and the operation of the schools of the State."

It was not necessary, as some of the school people had felt in former years, to stage mass demonstrations in 1936 to ask for more money for our schools. There was no bickering or dispute over the per capita appropriation. The Legislature asked the Department of Education to supply it with the enrollment of the public school students in the State so that a \$12.00 per capita could be provided.

Recently a controversy has arisen. In public speeches some of the school authorities have said it is the fault of the Legislature that they failed by a few cents to get a \$12.00 per capita during 1936 and 1937. The blame should not be placed on the Legislature. Through no fault of that body the public school officials of the State did not furnish a correct list of



the number of school pupils for 1936 and 1937. Notwithstanding this, however, the State during these years paid to the per capita school fund \$9,153,695.08, which represents the greatest contribution to public schools ever made in all the history of the State.

In addition thereto the Legislature appropriated \$500,000 for free textbooks, and more than \$499,553 of this amount was actually expended.

Some so-called leaders of our school people have recently made demands upon the Governor and the Legislature that they be furnished during the next biennium a sum equal to \$15.00 per capita for the maintenance of the public schools. This demand, in my judgment, is an unjust one. It should not have been made but, having been made, it should be promptly rejected by the Legislature.

In order to meet the natural increases occasioned by the fact that approximately 10,000 more children will become of school age each year, it will be necessary for the Legislature to appropriate for 1938, \$9,600,000, which represents an increase of nearly \$500,000 and for 1939, \$9,700,000, which is an increase of nearly \$600,000. Thus it will be seen that in order to take care of the natural increases in enrollment it will cost the Commonwealth in excess of \$1,000,000 more for the coming two years than for the last bienium.

Some of the school people demand \$12,000,000. If you accede to this demand, it will cost the taxpayers of the State nearly \$2,900,000 more than was spent during the last two years, and that expenditure represented the greatest amount of money appropriated for the public schools for all time.

I recommend that \$500,000 be again appropriated for free textbooks in Kentucky and that no addition be made at this time.

I recommend the merger of the two negro colleges. In 1890, 14.4% of the State's population was colored. In 1930 colored people constituted only 8.6% of our entire population. From 1900 to 1930 the number of colored citizens decreased

from 284,706 to 226,000. The State is now undertaking to operate two second class colored colleges. Only one has the prospect of being a real school. By combining these we will be able to offer a Class A college for the training of the colored people of Kentucky. We can adequately support one school and make a reasonable appropriation to it.

The Paducah school, in my judgment, can never, even by the expenditure of large sums of money, be made a satisfactory institution. There is at Nashville, Tennessee, a Class A college, which has nearly as many Kentucky students as are now attending the Paducah school.

At present it costs the State \$350.00 per capita to attempt to educate the 150 students at Paducah. There are nearly 500 students in the Frankfort school and the cost is approximately \$135.00 per pupil.

Every school administrator in Kentucky, both white and colored, agree that this merger will save money and offer a better opportunity to educate our young colored people.

The appropriation bill as prepared by the Budget Director and recommended by the Governor carries no appropriation for the school at Paducah in the future.

It is my deliberate judgment that for the reasons indicated the merger should be made effective by this Legislature.

### OLD AGE PENSIONS

In 1936, Kentucky was one of the first states to cooperate with President Roosevelt's Social Security Program. The Old Age Pension law became effective July 1 of that year, and at my request the Legislature fixed the maximum at \$15.00 instead of \$30.00. This was done because the State was in debt and each legislator knew that to vote a higher appropriation would only result in the State giving cold checks to our old people.

From August 1, 1936, to December 1, 1937, \$3,641,209.45 was paid to the men and women of Kentucky over sixty-five years of age who come under the provisions of the act. Of

this amount \$1,820,604.78 came from the taxpayers of this State.

The records of the Old Age Pension Division show that Kentucky carried on carefully its system of Old Age Pension investigation, and did not make the mistake made by so many of the states of hurriedly putting on the pension rolls thousands of old people who later, because of insufficient funds, had to be taken off. In October, 1937, 40,298 of our citizens received Old Age pensions.

It is assumed that during the next two years there should perhaps be added at least 10,000 names to the pension rolls in this State. The appropriation for the first two years was set by the Legislature of 1936 at \$2,500,000. I now recommend that for the next biennium \$3,000,000 be set aside for each of the two years. This should take care of natural increases because of the additional pensioners that will be added and I urgently recommend that no increase in the amount of the pension be granted at this time.

The average now is approximately \$10.00 for each pensioner. To raise this in any amount would call for new taxes and would throw the budget of the State out of balance.

### PUBLIC SERVICE COMMISSION

During the two years last past the Public Service Commission has represented the people of Kentucky in a most effective and efficient manner. The Commission has reviewed the operating results of every public utility in the State, and from this general study has been able to obtain rate revisions amounting to approximately \$3,000,000. These reductions have been obtained for the most part through informal conferences with utility representatives and have in no wise jeopardized the financial standing and general credit of the companies involved. In connection with its rate program, the Commission has stressed the basic fundamental of sound utility regulation, and has undertaken to set up a comprehensive and practical method of determining a fair basis for rate

making. The obvious benefits to all of the people of the State can be seen immediately by the Legislature.

The Kentucky Commission is the first state regulatory body to authorize a uniform state-wide special wholesale power rate for rural electrification cooperatives. The establishment of a basic rate of 1.2 cents per kilowatt hour places this State a leader and has set a precedent which other states have followed.

On December 31, 1937, allotments of Federal funds to Kentucky for rural electrification totaled more than \$2,500,000, involving 2,450 miles of line which will serve over 10,000 customers. Applications for additional allotments will total more than \$4,500,000 involving 4,400 miles of line which will serve an additional 18,000 customers.

In addition to this, the Commission has worked with privately owned public utilities in developing a rural extension program costing \$1,050,000 and involving 800 miles of line and serving 6,000 customers.

The Commission, composed of Governor J. C. W. Beckham and James W. Cammack, Jr., Democrats, and T. B. McGregor, Republican, has worked harmoniously and diligently. It secured the services of J. A. Krug who has now been called to direct the general activities of the T. V. A., largely on account of the record made as Consultant to the Public Service Commission of Kentucky.

The work of the Commission was directly responsible for the good results accomplished in the general reduction of telephone rates throughout the State in 1936.

The Commission has avoided litigation wherever possible, but has in every way fulfilled its obligations to the people.

The public utilities in this State who have cooperated with the Commission and with the public generally deserve the thanks of our citizenry

I recommend that careful attention be given to the rewriting of the Public Service Commission law. The present law



should be expanded and clarified, and I am quite certain that this can be done without much trouble or delay.

## DEPARTMENT OF INDUSTRIAL RELATIONS

The Department of Industrial Relations was created by the Reorganization Act of 1936. W. C. Burrow is the Commissioner.

During the last two years there has been a wave of strikes throughout the United States. The policy of this Administration was to have the Commissioner of Industrial Relations establish and maintain, if possible, friendly relationship between employers and employees.

When the so-called "sit-down" strikes commenced in some states the Governor of Kentucky was among the first in the Union to declare that the "sit-down" strike was illegal and would not be tolerated within the borders of this State.

I desire now to express my appreciation for the cooperation that was given to my Administration by Labor.

There were more than 35 industrial strikes in this State, and all but two of these were settled amicably by the Commissioner of Industrial Relations without the loss of a single life. Satisfactory understandings between capital and Labor have resulted.

It is the policy of the Administration that every worker in Kentucky has the right to join a Union or any other legal organization of his or her choice, but no one has the right to compel membership against the wishes of the worker.

We have enjoyed, in my judgment, the greatest measure of peace in industry that has been enjoyed by any state in the Union. This has been brought about by working diligently to protect by correct means the rights of all our people.

Company paid deputy sheriffs in the State have brought trouble to the law enforcement agencies of the Commonwealth. Frequently the rights of labor have been infringed upon unjustly. In order to put an end to this, I ask that the Legis-

lature immediately pass a law that will abolish forever company paid deputy sheriffs.

### DIVISION OF UNEMPLOYMENT COMPENSATION

The Division of Unemployment Compensation created by the Kentucky Legislature in special session on December 29, 1936, was approved promptly by the Social Security Board in Washington.

Our Commission through its Executive Director, the Honorable Vego Barnes, has collected \$4,653,137.26 since June 30, 1937. It should be understood that the tax collected by the Unemployment Compensation Division is not collected from the people of this State to be applied to other purposes but represents a contribution of the wage-earners, employers and the Federal government which will supply compensation in the future when workers find themselves out of employment.

On this Commission in addition to Mr. Barnes there is a representative for both employer and employee. Mr. John C. C. Mayo, Jr., of Ashland represents employers. Mr. Omer C. Stubbs, a member of Union Labor in this State, represents the workers.

### THE KENTUCKY STATE EMPLOYMENT SERVICE

The State Employment Service under the Unemployment Compensation Law is assigned the task of finding jobs for the unemployed.

Placements of applicants in jobs since April 1, 1937, reached 16,577

This division is headed by the Honorable William H. Fraysure, and is making an excellent showing.

### WORKMEN'S COMPENSATION BOARD

The Workmen's Compensation Board has for the past two years carried on in such an efficient manner as to win the genuine approval of all. This board is composed of Mr. James B. Milliken, Newport, Chairman, Honorable W. J.

Fields, Grayson, and Honorable Frank P. Hall, a member of the United Mine Workers of America, Weeksbury, who represents the mine workers, thus giving them for the first time in history representation.

Awards have been promptly made, and cases before the Board have been tried and correct decisions given. During 1936 and 1937 12,844 male employees in the State were injured in 333 accidents; 8,015 agreements involving \$1,436,000 were reached. In addition to the agreements approved by the Board, awards to injured employees and to families of deceased employees amounted to \$414,000.

### DIVISION OF PROBATION AND PAROLE

In 1936, the overcrowded condition of the State penitentiaries and their inadequate facilities for handling prisoners made it absolutely necessary that a probation and parole law be passed. As a member of the State Senate in 1930, I had sponsored a bill asking for the establishment of such a system. It did not pass. It should have passed then for the following reasons:

1. Numerous first offenders can be probated and paroled by the circuit judges in their own districts and saved the stigma of having to go to the penitentiary. It has been proven that many of them will not repeat their mistakes and will make good citizens.

2. The average cost of probating a prisoner in the State is \$30.00 per man. The cost of keeping a prisoner in a State institution is \$180.00 per year.

The probation law became effective May 16, 1936, and the Honorable Norman Braden was named as Director of the Division of Probation and Parole.

Since the effective date of the Act, 1,692 paroles have been granted to inmates of the State penitentiaries. Each application has been carefully investigated by the Board; each man paroled had a contract of employment that would make him self-sustaining. In considering the parole of a prisoner the

Board has made the safety of society the paramount issue. Vicious offenders and repeaters and those who have demonstrated that they have no respect for the law have not been given paroles.

Of the 1,692 men paroled since May 16, 1936, only 79 have been returned for parole violation. In almost every instance these men were returned before they got into serious trouble. Since the effective date of the Act, 754 probation cases have been handled by this division.

There are today 655 probation cases in the active files of the department. Of this number 21 are females and 634 are males; 168 are colored and 487 are white.

The average sentence probated and suspended is one year and eleven months. Those circuit judges in the State who have cooperated with us in granting probation to prisoners and thus diminishing the prison population have our sincere thanks. We regret the failure of certain circuit judges, who have not cooperated with the department and who have, in my judgment, shirked their duty in failing to probate prisoners who are entitled to probation under the provision of the Act.

As a candidate for Governor and in my inaugural address I pledged that during my term of office I would not abuse the pardoning power. In times past this prerogative has very frequently been sadly abused. I have the honor to report to the Legislature and to the people of Kentucky that since I took the oath of office on the tenth day of December, 1935, I have not given a single executive pardon or a commutation of sentence to a man or woman convicted of a crime within the borders of our State. This does not mean that if circumstances justify the granting of executive clemency I would not immediately act, but it does mean that when the courts of this Commonwealth have given to a man or woman indicted for a crime a fair trial and this verdict of the court has been approved and sustained by the Court of Appeals and there is no error prejudicial to the rights of the accused, I will let the



judgment of the court become effective. I do this for the protection of our citizens in order that they may pursue their daily occupations free from molestation at the hands of those who would without justification interfere with the rights and liberties of others.

### STATE INSTITUTIONS AND THE BUILDING PROGRAM

The deplorable condition of the State's penal and eleemosynary institutions, which were considered the best in the country in 1799 but, because of failure to keep them in condition, had deteriorated until they were the worst in America in 1935, demanded the immediate attention of this Administration.

The second day after I took the oath of office as Governor, I requested the Federal Government to assist Kentucky as it had been assisting other states in the rehabilitation of their institutions.

Under the direction of the Honorable Frederick A. Wallis, Commissioner of Welfare, this work is being pushed forward rapidly and today I report the following progress:

1. A new minimum security penitentiary in Oldham County will be completed within the next year to replace the old Frankfort penitentiary abandoned during the flood in 1937.

2. A fireproof hospital, well equipped and well staffed with trained doctors and nurses is being built in Boyle and Mercer counties to take the place of the Lexington hospital which is unfit to house the mental patients of the State.

3. A penitentiary for women is being built on the State's property in Shelby County, which will cost about \$125,000. This will take the place of a wing of the Frankfort penitentiary where formerly men and women prisoners were housed in the same institution.

4. The Eddyville penitentiary is being fortified and a new cell block is being built and will be completed within a year. This will house about 600 additional prisoners. The

Eddyville penitentiary will be maintained as a maximum security institution for the incarceration of habitual criminals.

5. Work will start immediately upon a new office building to house the various State departments. This building is to be erected on the site of the old Frankfort penitentiary and by using the foundation stone and materials, which are now on that site, more than \$100,000 can be saved. When this building is completed and the Frankfort Memorial Bridge is finished there will be a fine connecting road from the Capitol to the State office building across the Kentucky River. This will constitute a distinct improvement to the Capital City, and will provide greater comfort and security for the people who work for the State.

There is included in the budget for the next two years a sum equal to approximately \$1,300,000 a year, which will be used to continue the State's building program.

I recommend this because it is highly important that decent hospitals to house the mentally sick be provided and that these very necessary public improvements be made.

## HIGHWAYS

Under the provisions of the Reorganization Act of 1936, I named the Honorable Robert Humphreys of Mayfield as Commissioner of Highways. The Honorable Thomas H. Cutler was appointed Chief Engineer. It was through the generosity of Judge Robert W. Bingham, whose untimely death a few days ago brought distress to the Commonwealth, that we were able to secure the services of Major Cutler. His work as a road builder in Missouri had won the approval of engineers throughout the country.

The present commission is composed of nine advisory members, each of whom represent a Congressional District.

In December, 1935, when we came into office, the Highway Department was nearly \$4,000,000 in debt. Drastic economies and reduction of personnel enabled the department to

pay its obligations by April 1, 1936. It was then placed by the Governor on a cash basis.

On December 10, 1935, there were 7,864.86 miles of roads under State maintenance. On December 1, 1937, this had been increased to 8,170.40 miles. There have been placed under contract since December 10, 1935, 188.83 miles of high type surface roads within the State; 146.15 miles of medium type surfaces; 677.31 miles of low type surface, which with the other constructive types brought the total number of miles constructed between December 10, 1935, and December 1, 1937, to 1,368.95 at a total cost of \$16,939,918.03.

The Commissioner of Highways and the Chief Engineer have both done excellent jobs. For the first time in many years the members of the Commission have worked harmoniously together.

It is my belief that, if given three or four uninterrupted years of service, Kentucky will make the greatest advance in road building that has ever been made in a similar period of time.

I, therefore, urge that no change be made in the law governing the present Highway Commission; that it be continued as presently constituted; that the policy of the present Administration to build adequate roads where traffic surveys indicate their need be continued, and that the general road-building plan of the Administration be approved by the Legislature.

### COUNTY ROADS

At the general session of 1936 I said to the Legislature: "Many of the counties of Kentucky are unable to maintain their local county roads because of a lack of funds, machinery and men trained for this kind of work.

"I therefore urge that you provide an appropriation for the benefit of all the counties of the State to start a rural road program."

I desire now to report the progress made by the Rural Highways Department, created in 1936.

Four million dollars was appropriated to carry on this work from May 1, 1936, to March 31, 1938. According to the report of the Honorable Cecil Williams, the very efficient Commissioner of Rural Highways, 4,540 miles of rural highways were ditched and shaped; 2,200 miles were graded and drained; 1,540 miles were resurfaced and 2,305 miles were newly surfaced. Fifty-six bridges were built over twenty-foot spans.

The expenditures will equal the total amount of the appropriation.

There is no member of the Legislature who does not fully realize the effectiveness of the Rural Highways law. I now ask that it be continued and that the same appropriation be made for it as was made for the last biennium; that all of the public roads be taken over by the State Highway Department and placed on the primary system. I make this recommendation for the reason that the State can only maintain such roads as are on the primary system, and many of the roads worked on by the rural highways program should be maintained by the State.

I also recommend passage of an act giving the Commissioner of Highways the authority to make a program for a county and proceed with the work where the fiscal court refuses to agree on a road program within thirty days after April 1.

### HIGHWAY PATROL

The State Highway Patrol, under the direction of Adjutant General G. Lee McClain, is constantly being improved and is working toward effective and complete patrolling of the State's main thoroughfares. I ask that the department be continued as presently constituted.

### TOLL BRIDGES

There has recently been some agitation toward freeing the toll bridges. This has been brought about in part by inter-



ested citizens and in part by those selfishly seeking to place themselves in a favorable position in the public eye.

Every one in Kentucky favors free bridges, but it must be remembered that the toll bridges were built under the Murphy Act of 1928 and that they were built to replace ferries which were dangerous to the traveling public and charged higher tolls than the present bridges collect.

When these bridges were built they were constructed with the approval of the people and with the understanding that they were to become free when paid for. The Highway Commission is now and has been making a careful survey of the toll bridge situation. It can and will do everything within its power to assist in bringing about as speedily as possible the freeing of every toll bridge.

It is absolutely impossible, however, to consider taking, as some have advocated, \$3,500,000 out of the Road Fund in order to make these bridges free.

The bridges are not State obligations. The bridge bonds were sold with the understanding that the State has no obligation except to collect the tolls and account to the bondholders for the money collected.

### LOBBYISTS

In 1936, I recommended to the Legislature that it give paid lobbyists, who are selfish in their interests and who are not concerned with the public welfare, to understand that they are unwelcome visitors to Frankfort during the sessions of the Legislature.

Because of the determination of the General Assembly in 1936 to do its work without interference, the lobbyists almost disappeared from the Capitol.

I recommend again that the 1938 session of the Assembly give the lobbyists to understand that it wants to be free from those who seek to control legislation or who represent selfish interests.

I know that no legitimate business will be molested by the Legislature. Any citizen of the State sincerely interested in any legislation should be given a chance to be heard.

### EMERGENCIES

During 1936 and 1937 the State has faced great emergencies. The drought of 1936 was one of the worst in all of the history of the State.

The flood of 1937 was the most disastrous Kentucky has ever known. Eight hundred thousand were driven from their homes and many of our citizens lost the savings of a lifetime. Our people, with characteristic courage and bravery, met this emergency.

The Administration was mindful of its obligations to the people, and every agency of the State government dropped its regular work and went to the aid of the distressed.

The courage of our people at the time of this great crisis will be recorded as a bright chapter in Kentucky's history.

### SUMMARY

It will be seen from the foregoing that the State has made during the last two years a record of which all of the people can well be proud. This has been made possible by the cooperation of those of you to whom the people of the State have committed the management of their public affairs.

I do not claim to be the best Governor the State has ever had, but I do believe that I am the most fortunate—fortunate because of the fact that I have enjoyed the greatest measure of cooperation from the Legislature, from the elective officials, from the appointed heads of boards and commissions, from the citizens of the State and from the public press. I desire upon this occasion to thank each one sincerely for the part he has played in advancing the State's interest during the last two years.

There has been, of course, in the ranks of the State officials those who have hampered and interfered with progress,

but they are few and they have demonstrated that they are enemies of good government. They have been rebuked by the people whenever there has been an opportunity to observe and pass upon their conduct.

The financial showing of the State during the last two years has been better than any of the friends of the Administration had reason to hope for. This has been due to the following reasons:

1. Careful collection of taxes by the Commissioner of Revenue, the Honorable James W. Martin.

2. Careful and honest expenditure of the public money, checked and watched most carefully by the Honorable J. Dan Talbott, Commissioner of Finance, and his fine department.

3. Close cooperation between the Governor's office and the Honorable John E. Buckingham, Treasurer of the Commonwealth, who has made every effort to save and safeguard the people's money.

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The budget for the next two years has been carefully prepared by the Commissioner of Finance, the Comptroller, the Honorable Frank D. Peterson, and the Governor.

It is our duty to submit this to you with the recommendations of the Governor as to the amounts that should properly be allocated to each department. In years past the budget was usually submitted during the last two or three days of the Legislature and then millions of dollars voted by way of appropriations when there were no taxes or revenues provided to meet them.

In 1936, the budget was approved in extraordinary session by the Legislature upon the recommendation of the Governor.

This year the budget is submitted on this the opening day of the 1938 session of the General Assembly. It has been given the most careful and painstaking consideration. It is presented to you with my unqualified recommendation and

approval. It carries with it also the approval of Lieutenant Governor Keen Johnson and Speaker John Kirtley, who have given to this Administration since its start the greatest measure of honest faithful cooperation, and who are entitled to much credit for its success. The Budget Bill has the unanimous approval of the Legislative Council composed of Democrat and Republican members of the House and Senate, as well as the Attorney General, the Honorable Hubert Meredith; the Auditor of Public Accounts, the Honorable E. E. Shannon; the Treasurer, the Honorable John E. Buckingham; the Secretary of State, the Honorable Charles D. Arnett; the Commissioner of Revenue, the Honorable James W. Martin, and the Honorable James W. Cammack, Jr., all of whom have given to the Administration their valuable services and support

The budget total for the year 1938-39 is \$24,500,000; for the year 1939-40, \$24,742,132.10.

I urge immediate approval of this budget by the Legislature without alteration, and I want to say that if the budget is approved without change the State can continue to live within its income for the next two years; can meet its obligations promptly; can continue to discount its bills; can continue to reduce the outstanding indebtedness and can free the State from debt by the first day of November, 1939. This is not only a goal worth working for, but is a goal worth fighting for if necessary.

I make the following specific recommendations to the Legislature:

1. That the budget bill be passed as presented as speedily as possible.

2. That no new or additional taxes be voted upon the people of this State during this 1938 session of the General Assembly.

3. That the Legislature refuse to permit any of the present tax laws to be changed or altered, inasmuch as it is



absolutely essential in order to meet the State's financial obligations that the income tax law, the cigarette tax law and the whiskey tax law and all other revenue sources now relied upon by the Commonwealth be retained.

4. That you pass as speedily as possible a liquor control bill for the whole state. That the administration of such a law be placed under the Commissioner of Revenue so that he can protect our tax sources.

5. That you approve of the merger of the two colored colleges.

6. That you continue by adequate appropriation the rehabilitation of the State institutions.

7. That you keep the appropriation for public schools at \$12.00 per capita.

8. That you keep the old age pension laws substantially as they are at present.

9. That you keep the present highway laws intact.

10. That you pass an act outlawing company paid deputy sheriffs.

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Do your work in the general session, which should be completed not later than March 1. It is my desire that you arrange to adjourn this session on that date. If you will grant this request, it is my plan to call you into extraordinary session immediately to consider the bonded indebtedness of the counties.

The Legislative Council, with the help of the State officials, is considering this problem. More than \$27,000,000 is owed by the counties at this time. This represents an obligation of more than \$10.42 per capita or a tax of \$1.56 for each \$100.00 worth of taxable property in Kentucky.

Only 13 counties of the State are without debts.

Unless this matter is carefully considered by the Legislature 50 or more counties may default on their bonds within the next two years.

It is my desire to have the Legislature set up the machinery necessary to help the counties meet their obligations. This can best be done in an extraordinary session.

In my message of January 6, 1936, I said that I believed if you would follow certain recommendations made at that time we would be able to establish a new order in Kentucky. To those of you present who followed my leadership then and who met the challenge as it was presented to you, I offer my profound thanks.

We have during the past two years so effectively reorganized the functions of government in this State that we have in fact restored it to the hands of the people, and we are now in a position to more nearly promote the general welfare than we have ever been before.

This record has not been accomplished by selfishness. It has been accomplished by patriotic men in both parties in the State. I acknowledge today our indebtedness to those members of the Republican party in the House and Senate who have given of their time and energies to support our program of progress.

This Administration is half way through. One-half of its record has been made. I urge each member of the Legislature today to go with us through the second half. I would like to have a part in an administration of public affairs that during a four-year period is writing into the annals of history a record of honest, faithful and patriotic service. I believe that every member of this Legislature wants to make a good record. I believe that sincerely in the heart of each of you there is a desire to do the job well.

Kentucky stood at the crossroads in 1936, but the members of that Legislature accepted the challenge.

I am in full sympathy with you as you enter upon the discharge of your important duties. As a former member of the General Assembly I think I know the feelings of a representative of the people in that capacity.

I am by the grace of God and the votes of the majority of my fellow citizens your leader. It is my highest desire to give to the people the kind of leadership that they are entitled to have.

May God bless all of you in your labors, and during your absence from home may He keep your loved ones from all harm and distress, and may He who holds the destiny of us all in the hollow of His hand keep you safe. May He help you serve to the best of your ability your fellow Kentuckians.

Senator Gilbert moved that this Joint Session do now dissolve.

Said motion was agreed to.

Whereupon, the President of the Senate resumed the chair and called the Senate to order.

Senator Gilbert moved that the Senate do now recess to meet again at 3:00 P. M.

Said motion was agreed to.

And thereupon the Senate recessed.

The hour of 3:00 P. M. having arrived, the Senate reconvened and was called to order by the President of the Senate.

Senator Gilbert offered the following resolution, viz.:

S. Res. 2. Be it Resolved by the Senate of Kentucky: That the rules of the 1936 Regular Session be the rules to govern this Senate until new rules shall be duly adopted.

Said resolution was adopted.

The President of the Senate announced the following Standing Committees of the Senate and the names of those constituting said Committees, as follows, viz.:

### COMMITTEES

#### AGRICULTURE AND STATE FAIR

O. C. Whitfield, *Chairman*

Stanley Blake	P. M. Basham
W. A. Crockett	J. A. Sugg
Dr. D. H. Bush	Otis White

#### APPROPRIATIONS

E. C. Moore, *Chairman*

Ralph Gilbert	Otis White
B. M. Williams	J. W. McDonald
Ervine Turner	J. E. Trager
Leo King	T. O. Turner
J. J. Hettinger	E. C. Dawson

#### BANKS AND TRUST COMPANIES

Lee Gibson, *Chairman*

William Attkisson	Aubrey Barbour
H. W. Hillman	O. J. Bowen

#### CHARITABLE, PENAL, AND REFORMATORY INSTITUTIONS

W. A. Crockett, *Chairman*

O. C. Whitfield	W. C. Farmer
I. W. See	J. C. Rogers

#### CHILD WELFARE AND SOCIAL WORK

H. W. Hillman, *Chairman*

Paul Sidebottom	E. T. Wesley
W. C. Farmer	Aubrey Barbour



## CLASSIFICATION OF TOWNS AND CITIES

E. T. Wesley, *Chairman*

J. C. Rogers

W. A. Crockett

J. M. Wolfinbarger

Stanley Blake

## COMMON CARRIERS AND COMMERCE

E. C. Dawson, *Chairman*

H. W. Hillman

I. W. See

J. Lee Moore

T. O. Turner

P. M. Basham

J. W. McDonald

## COMPENSATION FOR INDUSTRIAL INJURIES

William Attkisson, *Chairman*

Leer Buckley

Ervine Turner

Strother Melton

J. W. McDonald

## CONSTITUTIONAL AMENDMENTS

Aubrey Barbour, *Chairman*

Leer Buckley

O. J. Bowen

W. C. Farmer

Strother Melton

## COURTS AND LEGAL PROCEDURE

J. W. McDonald, *Chairman*

J. E. Wise

J. C. Rogers

P. M. Basham

E. T. Wesley

E. C. Moore

Ralph Gilbert

## CRIMINAL LAW

P. M. Basham, *Chairman*

J. C. Rogers

E. C. Moore

J. E. Wise

Leo King

J. W. McDonald

Leer Buckley

## DRAINS AND DITCHES

J. A. Sugg, *Chairman*

Lee Gibson

O. C. Whitfield

## EDUCATION

J. C. Rogers, *Chairman*

Paul Sidebottom

W. C. Farmer

William Attkisson

O. J. Bowen

P. M. Basham

Lee Gibson

## ENROLLMENT

E. C. Dawson, *Chairman*

Joe P. Tackett

Ralph Gilbert

W. H. Jones

E. C. Moore

## EXECUTIVE AFFAIRS AND FEDERAL RELATIONS

Lee Gibson, *Chairman*

J. E. Wise

J. J. Hettinger

Otis White

E. C. Moore

Dr. D. H. Bush

W. H. Jones

J. M. Wolfenbarger

J. E. Trager

Stanley Blake

Paul Sidebottom

## FISH AND GAME

John M. Hall, *Chairman*

Ralph Gilbert

Ray B. Moss

W. H. Jones

W. A. Crockett

O. C. Whitfield

J. A. Sugg

## FORESTRY AND STATE PARKS

O. J. Bowen, *Chairman*

S. B. Mayer

Ray B. Moss

Paul Sidebottom

J. E. Trager

E. T. Wesley

W. A. Crockett

## GEOLOGICAL SURVEY

W. C. Farmer, *Chairman*J. E. Trager  
B. M. WilliamsLee Gibson  
Paul Sidebottom

## INSURANCE

S. B. Mayer, *Chairman*Leo King  
William Attkisson  
J. Lee MooreO. J. Bowen  
Ray B. Moss  
Strother Melton

## JUDICIAL COUNCIL

J. E. Wise, *Chairman*Joe P. Tackett  
J. C. RogersJ. M. Wolfinbarger  
E. T. Wesley

## JUDICIARY

Joe P. Tackett, *Chairman*William Attkisson  
Leer Buckley  
Aubrey BarbourO. J. Bowen  
J. E. Wise  
Otis White

## KENTUCKY STATUTES No. 1

T. O. Turner, *Chairman*B. M. Williams  
Lee Gibson  
Leo King  
J. A. SuggE. C. Dawson  
Ervine Turner  
John M. Hall  
J. C. Rogers

## KENTUCKY STATUTES No. 2

Paul Sidebottom, *Chairman*J. E. Trager  
J. E. Wise  
J. M. WolfinbargerDr. R. C. Moss  
S. B. Mayer  
O. J. Bowen

## KENTUCKY UNIVERSITY AND TEACHERS COLLEGES

Ray B. Moss, *Chairman*

B. M. Williams

Leer Buckley

Dr. R. C. Moss

T. O. Turner

J. A. Sugg

H. Watt Hillman

## LABOR AND MANUFACTURING

J. E. Trager, *Chairman*

H. Watt Hillman

Paul Sidebottom

I. W. See

Dr. D. H. Bush.

## LIBRARY AND HISTORICAL RECORDS

Leer Buckley, *Chairman*

Joe P. Tackett

W. C. Farmer

Stanley Blake

S. B. Mayer

## MILITARY AFFAIRS

I. W. See, *Chairman*

Leo King

Paul Sidebottom

Strother Melton

W. H. Jones, Jr.

## MINES AND MINING

B. M. Williams, *Chairman*

J. Lee Moore

O. C. Whitfield

H. Watt Hillman

Ray B. Moss

Joe P. Tackett

Lee Gibson

## MOTOR VEHICLES AND TRANSPORTATION

Strother Melton, *Chairman*

S. B. Mayer

E. C. Dawson

J. Lee Moore

Ervine Turner

J. E. Wise

T. O. Turner

P. M. Basham

E. T. Wesley

## MUNICIPALITIES

Dr. D. H. Bush, *Chairman*

J. J. Hettinger	Ray B. Moss
William Attkisson	J. E. Wise
Leer Buckley	O. C. Whitfield
J. E. Trager	John Hall
Aubrey Barbour	Ed Dawson

## NATIONAL PARKS

J. M. Wolfinbarger, *Chairman*

W. H. Jones	Otis White
Dr. R. C. Moss	Strother Melton

## PRINTING

W. H. Jones, *Chairman*

Jos P. Tackett	Strother Melton
Stanley Blake	William Attkisson

## PUBLIC HEALTH

Dr. R. C. Moss, *Chairman*

Joe P. Tackett	Dr. D. H. Bush
S. B. Mayer	I. W. See

## PUBLIC UTILITIES

J. J. Hettinger, *Chairman*

Leo King	Strother Melton
J. Lee Moore	Otis White
Ray B. Moss	O. J. Bowen
Ervine Turner	John Hall
Lee Gibson	Dr. R. C. Moss

## REAPPORTIONMENT

J. A. Sugg, *Chairman*

Ervine Turner	J. W. McDonald
J. M. Wolfinbarger	J. J. Hettinger
Dr. D. H. Bush	John Hall



## REGULATION OF INTOXICATING LIQUOR

Leo King, *Chairman*

E. C. Moore	B. M. Williams
J. J. Hettinger	Dr. D. H. Bush
John M. Hall	Ralph Gilbert
T. O. Turner	P. M. Basham
E. C. Dawson	O. C. Whitfield

## REVENUE AND TAXATION

Ralph Gilbert, *Chairman*

Leo King	T. O. Turner
S. B. Mayer	Aubrey Barbour
J. W. McDonald	E. C. Dawson
P. M. Basham	J. A. Sugg
B. M. Williams	J. C. Rogers

## ROADS AND HIGHWAYS

Ervin Turner, *Chairman*

Dr. R. C. Moss	Aubrey Barbour
H. Watt Hillman	Paul Sidebottom
J. Lee Moore	J. J. Hettinger
John Hall	E. C. Moore
P. M. Basham	J. C. Rogers

## SUFFRAGE AND ELECTIONS

Otis White, *Chairman*

Paul Sidebottom	Stanley Blake
E. T. Wesley	Ralph Gilbert
W. A. Crockett	

## TRADE AND COMMERCE

Stanley Blake, *Chairman*

W. A. Crockett	W. C. Farmer
I. W. See	John Hall

## VETERANS LEGISLATION

J. Lee Moore, *Chairman*

W. H. Jones  
Dr. R. C. Moss  
Leo King  
I. W. See  
Joe P. Tackett

J. M. Wolfinbarger  
Dr. D. H. Bush  
J. W. McDonald  
Paul L. Sidebottom

## RULES

Not announced as yet.

Senator Gilbert offered the following resolution, viz.:

S. Res. 3. Be it Resolved by the Senate of Kentucky: That the President of the Senate be authorized and directed to employ such additional help as he shall deem necessary, and to prescribe the amount and the manner in which they are to be paid.

Said resolution was adopted.

The President of the Senate as authorized and directed by said resolution announced the names of the following persons, viz.:

Tom Cooper, Second Assistant Clerk

Chester Hawkins, Assistant Doorkeeper

W. H. Caskey, Assistant Doorkeeper

R. W. Johns, Assistant Cloakroom Keeper

Mrs. W. A. Yates, Assistant Enrolling Clerk

Mary Lou Hubbard, Assistant Bill Clerk

Oscar L. Bozeman, Journal Clerk

Diana Herrington, Stenographer

Elizabeth Richardson, Stenographer

Gladys Chowning, Stenographer

Shelton Sauffley, Jr., Secretary of the Senate

John Boyle Stone, Clerk's Bookkeeper

Harry Moore, Mail Clerk

#### INTRODUCTION OF BILLS

The following bill was introduced, ordered printed and referred, as follows, viz.:

By Senator E. C. Moore.

S. B. 1. An Act appropriating money for the operation, maintenance, support and functionings of the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government of the Commonwealth of Kentucky, and the purchase of record books, as provided by Section 338, Kentucky Statutes, 1936 Edition, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County fees and defraying the expenses of any and all other State obligations for the fiscal years ending June 30, 1939, and June 30, 1940, designating the sources and funds from which said appropriations are to be made, describing the manner in which the same are to be paid, providing for the payment into the State Treasury of all fees and other miscellaneous receipts collected by all the different officers, departments, boards, commissions, institutions, and subdivisions of the State Government, which include all the different

agencies of the State, providing for the establishment of certain revolving funds specifically mentioned, providing for money refund, authorizing and empowering the Governor of the Commonwealth to equitably reduce, or adjust the appropriations made to officers, departments, boards, commissions, institutions, and subdivisions of the State and all other agencies specifically mentioned therein and authorizing the State Budget Officer with the approval of the Commissioner of Finance to make allotments and/or realLOTMENTS from appropriations made to the various officers, departments, boards, commissions, institutions and subdivisions of the State Government and other agencies, and authorizing transfers from allowances from one budget class to allowances in another budget class within the same budget unit, when approved by the Commissioner of Finance providing that certain appropriations shall be limited to specific purposes, barring the use of appropriations for certain purposes, and repealing all blanket and continuing appropriations not provided for in this Act, and all appropriations made by any previous act, or acts, of the General Assembly of the Commonwealth of Kentucky, and repealing all laws or parts of laws in conflict with any of the provisions therein and enacting each section and each subsection as a separate or specific appropriation.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

There is hereby appropriated out of the General Expenditure Fund for the fiscal year beginning July 1, 1938, and ending June 30, 1939, the following sums for the following officers, departments, boards, commissions, institutions, and subdivisions of the State Government, printing of County record books, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees and any other agencies of the State Government of the Commonwealth of Kentucky, subject to the provisions of the Reorgani-

zation Act of the 1936 General Assembly, for which the specific appropriation is herein listed, excepting those listed in parts 2 and 3 of this Budget Act, for the following purposes:

### 1. INDEPENDENT AGENCIES

(a) <i>Legislative Sessions.</i> For ordinary recurring expenses of operation .....	\$5,000.00
(b) <i>Legislative Council.</i> For ordinary recurring expenses of operation .....	\$5,000.00
(c) <i>The Council of State Governments.</i> For aiding in the defraying expenses of this Agency .....	\$250.00
(d) <i>Board of Election Commissioners.</i> For ordinary recurring expenses of operation .....	\$500.00
(e) <i>Railroad Commission.</i> For ordinary recurring expenses of operation .....	\$18,000.00

### 2. LIEUTENANT GOVERNOR

(a) <i>Lieutenant Governor.</i> For ordinary recurring expenses of operation .....	\$500.00
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### 3. JUDICIARY AND COURT COSTS

(a) <i>Court of Appeals.</i> For ordinary recurring expenses of operation .....	\$34,000.00
(b) <i>Clerk of Court of Appeals.</i> For ordinary recurring expenses of operation .....	\$16,000.00
(c) <i>Judicial Council.</i> For ordinary recurring expenses of operation .....	\$800.00
(d) <i>Clerks' Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Fund, Commissions on Fines and Forfeitures.</i> For ordinary recurring expenses of operation of the laws applicable to Clerks' Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, and Commissions on Fines and Forfeitures .....	\$1,315,300.00
(e) <i>Salaries—Judges and Commonwealth's Attorneys.</i> For ordinary recurring expenses of operation .....	\$275,000.00



(f) *Return of Escaped Convicts.* For ordinary recurring expenses of operation in paying for return of escaped convicts authorized by the Governor which have not been previously paid .....\$3,000.00

(g) *Rewards.* For paying of rewards authorized by the Governor of the Commonwealth .....\$100.00

#### 4. EXECUTIVE DEPARTMENT

(a) *Governor.* For ordinary recurring expenses of operation .....\$16,000.00

(b) *Executive Cabinet.* For ordinary recurring expenses of operation .....\$4,000.00

(c) *Contingent Fund.* For ordinary recurring contingent and maintenance expenses of operation.....\$6,000.00

(d) *General Emergency Fund.* For meeting ordinary recurring and extraordinary expenses deemed emergencies by the Governor of the Commonwealth and to be expended by the Governor to meet any emergency that may arise, which requires the expenditure of any part of said fund.....\$200,000.00

#### 5. SECRETARY OF STATE

(a) *Secretary of State.* For ordinary recurring expenses of operation .....\$19,300.00

(b) *Land Office.* For ordinary recurring expenses of operation .....\$1,200.00

#### 6. DEPARTMENT OF LAW

(a) *Attorney General.* For ordinary recurring expenses of operation .....\$38,000.00

(b) *Cost of Suits.* For extraordinary expenses of operation and paying Clerks, Sheriffs, Public Officials, and other necessary expenses in discharging the State's obligation in prosecuting in the interest of the State as required by law and subject to approval of the Department of Finance.....\$8,000

## 7. DEPARTMENT OF TREASURY

(a) *State Treasurer*. For ordinary recurring expenses of operation .....\$31,000.00

(Of this amount, no sum shall be used for printing checks used for the State Highway Department and Old Age Assistance.)

(b) *Custodian of Securities*. For ordinary recurring expenses of operation .....\$600.00

## 8. AUDITOR OF PUBLIC ACCOUNTS

(a) *Auditor of Public Accounts*. For ordinary recurring expenses of operation .....\$50,000.00

## 9. DEPARTMENT OF FINANCE

(a) *Office of the Commissioner, Division of the Budget, Division of Personnel Efficiency, Division of Accounts and Control, Division of Post-Audit, and Division of Purchases and Public Property*. For ordinary recurring expenses of operation of the various divisions within the Department of Finance and the administration of Confederate Pensions, and administration of Public Printing .....\$245,992.00

(b) For extraordinary expenses and capital outlay,  
\$5,000.00.

(c) *Public Printing Costs (Contractual Services)*. For ordinary recurring expenses of paper and printing costs not a specific charge against other budget units .....\$16,000.00

(d) *Public Record Books (Paper and Printing)*. For ordinary recurring expenses necessary in the purchase and replacement of public record books during the fiscal year,  
\$20,925.00.

(e) *Registration Books and Supplies*. For ordinary recurring expenses in purchasing additional registration books and supplies as required by the State-wide Registration Act of 1936 Regular Session .....\$500.00

(f) *Paper for Printing Election Ballots*. For ordinary

recurring expenses in furnishing paper for ballots for State elections as required by law .....\$8,000.00

(g) *Paper (Revolving Fund)*. To be used for the purchase of paper to be held in stock until charges for paper used by the budget classes are made against the various budget units .....\$20,000.00

(h) *Postage (Revolving Fund)*. To be used for the purchase of postage to be held in stock until charges for postage used by the budget classes are made against the various budget units .....\$10,000.00

(i) *Confederate Pensions*. For ordinary recurring expenses in paying pensions now provided for by law \$160,000.00

(j) *Interest on Warrants*. For ordinary recurring expenses of interest due on outstanding interest-bearing warrants against the Commonwealth .....\$275,000.00

#### 10. DEPARTMENT OF REVENUE

(a) *Commissioner of Revenue*. For ordinary recurring expenses of the various Divisions of the Department of Revenue .....\$320,000.00

(b) *Division of Alcoholic Control*. For the ordinary recurring expenses of operation .....\$42,000.00

#### 11. DEPARTMENT OF REVENUE, MISCELLANEOUS REVENUE AGENCIES

(a) *County Tax Commissioners*. For ordinary recurring expenses of operation .....\$307,000.00

(b) *County Boards of Supervisors*. For ordinary recurring expenses of operation .....\$26,500.00

#### 12. DEPARTMENT OF CONSERVATION

(a) *Director of Conservation*. For ordinary recurring expenses of operation .....\$6,500.00

(b) *Division of State Parks*. For ordinary recurring expenses of operation .....\$30,000.00

(Of this amount \$10,000.00 shall be earmarked to be expended exclusively in the operation of the Old Kentucky Home Park. Said Home to retain investments now existing for use and benefit of Old Kentucky Home.)

(c) *Division of Forestry.* For ordinary recurring expenses of operation .....\$12,000.00

(d) *Division of Publicity.* For ordinary recurring expenses of operation .....\$20,000.00

### 13. DEPARTMENT OF MILITARY AFFAIRS

(a) *Adjutant General.* For ordinary recurring expenses of operation .....\$30,000.00

(b) *Veterans' Division.* For ordinary recurring expenses of operation .....\$18,000.00

(c) *Division of Armories.* For ordinary recurring expenses of operation .....\$30,000.00

### 14. DEPARTMENT OF AGRICULTURE, LABOR AND STATISTICS

(a) *Division of Agriculture, Labor and Statistics.* For ordinary recurring expenses of operation .....\$37,500.00

(Of this amount each item shall not exceed the amounts specified below.)

(a1) Salaries of Division of Agriculture .....\$10,500.00

(a2) Office and traveling expenses of the Division of Agriculture .....\$5,000.00

(a3) Inspection of Tobacco Warehouses .....\$6,000.00

(It is the intentions of the Legislature to discontinue and repeal the appropriation for eradication of the cornborer.)

(a4) Salaries and other recurring expenses of the Division of Labor and Statistics .....\$16,000.00

(b) *State Board of Agriculture.* For ordinary recurring expenses of operation and extraordinary expenses designated by law .....\$172,350.00

(Of this amount each item shall not exceed the amount specified below.)

(b1) Expenses and per diem of Board Members	\$2,250.00
(b2) Expenses of Live Stock Sanitary Board	\$20,000.00
(b3) Diseases of Live Stock .....	\$1,500.00
(b4) Bang's Disease .....	\$4,000.00
(b5) Premiums at Kentucky State Fair from animal licenses .....	\$15,000.00
(b6) Operation of Kentucky State Fair.....	\$75,375.00
(The Department of Finance shall provide for the establishing of a Revolving Fund sufficient to meet the necessary operating current operating expense of the Fair for the period covering the week of the Fair.)	
(b7) For extraordinary expenses and capital outlay,	\$4,225.00.
(b8) Premiums for Kentucky State Fair.....	\$30,000.00
(b9) Retiring a part of the M & M Building bonded indebtedness maturing November 1, 1938 .....	\$15,000.00
(The interest on said bonds to be paid from receipts accruing from fees and concessions of said building.)	
(b10) Paying Premiums for Boys and Girls Club Work and Bourbon Stock Yard Junior Club, and for the promotion and encouragement of 4-H Club Work, for Kentucky products paid to Kentuckians .....	\$5,000.00

## 15. DEPARTMENT OF HEALTH

(a) <i>Department of Health—General.</i> For ordinary recurring expenses of operation .....	\$150,000.00
(b) <i>Prevention of Blindness.</i> For ordinary recurring expenses of operation .....	\$2,500.00
(c) <i>Laboratories.</i> For ordinary recurring expenses of operation .....	\$5,000.00
(d) <i>County Health Units and Departments.</i> For ordinary recurring expenses of operation .....	\$244,500.00



(e) <i>Visiting Nurses.</i> For ordinary recurring expenses of operation .....	\$6,000.00
(f) <i>Hazelwood Sanitorium.</i> For ordinary recurring expenses of operation .....	\$44,000.00
(g) <i>Interest on Bonds.</i> For extraordinary expenses of interest on Hazelwood Sanitorium bonds .....	\$8,400.00
(h) <i>Kentucky Crippled Children's Commission.</i> For ordinary recurring expenses of operation .....	\$85,000.00

## 16. DEPARTMENT OF WELFARE

(a) <i>Commissioner of Welfare.</i> For ordinary recurring expenses of operation of the charitable and penal institutions and the administration of the Department of Welfare including probation and parole .....	\$1,700,000.00
(b) <i>Home for Incurables.</i> For ordinary recurring expenses of operation .....	\$15,000.00
(c) <i>Colored Red Cross Hospital.</i> For ordinary recurring expenses of operation under the supervision of the Department of Welfare .....	\$4,000.00
(d) <i>Kentucky Children's Home Society—White.</i> For ordinary recurring expenses of operation under the supervision of the Department of Welfare .....	\$60,000.00
(e) <i>Kentucky Children's Home Society—Colored.</i> For ordinary recurring expenses of operation under the supervision of the Department of Welfare .....	\$20,000.00
(f) <i>Division of Public Assistance.</i> For ordinary expenses of operation and cooperation with the Federal Government under the Social Security Act approved August 14, 1935, and for the administration of Old Age Assistance, Chapter 94, 1936 Regular Session, and cooperation with Child Welfare and Aid to the Blind programs.....	\$3,000,000.00
(g) <i>New Lands and Buildings.</i> For extraordinary recurring expenses and capital outlay .....	\$1,280,437.45
(Of this amount \$250,000.00 shall be used for the purpose of erecting a general office building; \$200,000.00 may be used for the restoration, repairing, replacements, equipment, and	

improvements of the charitable and penal institutions under the Department of Welfare. The remainder, \$830,437.45 shall be used for erection and equipment of buildings for the use of the Department of Welfare for the confinement of convicts and the establishment of hospitals for the insane, feeble-minded, and epileptics of the State.)

(h) *Emergency Relief*. For extraordinary expenses which constitute special emergencies and/or for relief of indigent persons in the Commonwealth not otherwise provided for by any other agency of the State. Said fund to be administered and expended by the Governor of the Commonwealth .....\$150,000.00

(i) *Conveyance of Lunatics*. For ordinary recurring expenses of operation .....\$9,000.00

(j) *Pauper Idiots*. For ordinary recurring expenses of operation .....\$60,000.00

(k) *Julius Marx Sanitorium*. For ordinary recurring expenses of operation as provided for in Section 2061a-28, Kentucky Statutes .....\$9,000.00

## 17. DEPARTMENT OF EDUCATION

(a) *Superintendent of Public Instruction*. For ordinary recurring expenses of operation .....\$60,000.00

(b) *Division of Certification*. For ordinary recurring expenses of operation .....\$15,000.00

(c) *State Board of Education*. For ordinary recurring expenses of operation .....\$15,000.00

(d) *State Textbook Commission*. For ordinary recurring expenses of operation .....\$500.00

(e) *Common School per Capita Fund*. For the payment of teachers' salaries and other expenses incidental to the operation and maintenance of the public schools of the State .....\$9,461,061.84

(f) For interest on State School Bonds, as provided by the Constitution for the support of Common Schools, which

amount shall be used to supplement the appropriation for  
Common School Per Capita .....\$138,938.16

(g) *Free Textbooks.* For the purchase of textbooks as  
provided for in Chapter 48, Acts of 1928.....\$500,000.00

(h) *War Orphan and Scholarship Fund.* For the pur-  
pose of carrying out the provisions of Sections 4376b-11 and  
4527-31, Kentucky Statutes .....\$1,400.00

(i) *Vocational Education.* For ordinary recurring ex-  
penses of operation under the provisions of existing laws,  
\$25,000.00

(j) *Vocational Rehabilitation.* For ordinary recurring  
expenses of operation in rehabilitating persons disabled in  
industry or otherwise .....\$21,380.55

(k) *Kentucky State Industrial College.* For ordinary  
recurring expenses of operation .....\$110,000.00

(kl) For extraordinary expenses and capital out-  
lay .....\$50,000.00

(This entire amount shall be used for the purpose of  
erecting a dormitory at the Institution. Expenditure shall be  
made in accordance with the Reorganization Act governing  
the expenditure of funds for capital outlay purposes and may  
be treated as a continuing appropriation.)

(l) *College Tuition for Negroes.* For extraordinary ex-  
penses of paying college tuition of Negro students required to  
go out of the State to obtain higher educational training,  
\$5,000.00.

(m) *Kentucky School for the Blind—White.* For ordi-  
nary recurring expenses of operation .....\$61,500.00

(n) *Kentucky School for the Blind—Colored.* For or-  
dinary recurring expenses of operation .....\$7,000.00

(o) *Kentucky School for the Blind—Workshop for the  
Adult Blind.* For ordinary recurring expenses of opera-  
tion .....\$14,800.00

(p) *Kentucky School for the Deaf—White.* For ordi-  
nary recurring expenses of operation .....\$110,000.00

(q) *Kentucky School for the Deaf—Colored.* For ordinary recurring expenses of operation .....\$8,500.00

## 18. UNIVERSITY OF KENTUCKY

(a) *Division of Colleges.* For ordinary recurring expenses of operation .....\$775,000.00

(a1) For extraordinary expenses and capital outlay,  
\$158,000.00.

(Of this amount each item shall not exceed the amounts specified below.)

Repairs to Buildings .....\$8,000.00

Library Equipment .....\$30,000.00

Scientific Laboratory Equipment .....\$60,000.00

Engineering Equipment .....\$60,000.00

(b) *College of Agriculture.* For ordinary recurring expenses of operation .....\$24,000.00

(c) *Summer School Session.* For ordinary recurring expenses of operation .....\$8,000.00

(d) *Experiment Station.* For ordinary recurring expenses of operation .....\$48,000.00

(e) *Service Laboratories.* For ordinary recurring expenses of operation .....\$21,000.00

(f) *Nursery Inspection.* For ordinary recurring expenses of operation .....\$2,000.00

(g) *Princeton Sub-Station.* For ordinary recurring expenses of operation .....\$14,000.00

(h) *Quicksand Sub-Station.* For ordinary recurring expenses of operation .....\$14,000.00

(i) *Agricultural Extension Work.* For ordinary recurring expenses of operation .....\$120,000.00

## 19. STATE TEACHERS' COLLEGES

(a) *Eastern Kentucky State Teachers College.* For ordinary recurring expenses of operation .....\$241,000.00

(a1) For extraordinary expenses and capital outlay,  
\$79,000.00

(Of this amount each item shall not exceed the amounts specified below.)

Repairs and improvements of buildings .....\$4,000.00

New Building .....\$75,000.00

(This sum may be combined with a like appropriation for the fiscal year ending June 30, 1940, and for contractual purposes be obligated, but the appropriations for the fiscal year 1939-40 shall not be actually disbursed until after July 1, 1939.)

(b) *Morehead State Teachers College.* For ordinary recurring expenses of operation .....\$194,000.00

(c) *Murray State Teachers College.* For ordinary recurring expenses of operation .....\$219,400.00

(c1) For extraordinary expenses and capital outlay,  
\$37,500.00

(This sum may be combined with a like appropriation for the fiscal year ending June 30, 1940, and for contractual purposes be obligated, but the appropriations for the fiscal year 1939-40 shall not be actually disbursed until after July 1, 1939.)

(d) *Western Kentucky State Teachers College.* For ordinary recurring expenses of operation .....\$340,000.00

(d1) For extraordinary expenses and capital outlay,  
\$40,000.00

## 20. DEPARTMENT OF LIBRARY AND ARCHIVES

(a) *Law Librarian.* For ordinary recurring expenses of operation .....\$8,300.00

(b) *Law Library-Books.* For ordinary recurring expenses of operation, as provided for under Section 2440, Kentucky Statutes .....\$3,500.00

(c) *Library Sales Account—Kentucky Reports.* For extraordinary recurring expenses of paying the costs of publishing the Kentucky Reports and pamphlets of opinions of the Court of Appeals, as provided for under Section 955a-9, Kentucky Statutes .....\$15,800.00



(d) *Distribution and Repair of Books.* For ordinary recurring expenses of operation .....\$500.00

(e) *Division of Library Extension.* For ordinary recurring expenses of operation .....\$10,000.00

(f) *Kentucky State Historical Society.* For ordinary recurring expenses of operation .....\$7,715.00

## 21. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Division of Athletic Control.* For ordinary recurring expenses of operation .....\$6,500.00

(b) *Division of Banking and Small Loans.* For ordinary recurring expenses of operation .....\$45,000.00

(c) *Division of Insurance.* For ordinary recurring expenses of operation .....\$90,000.00

(d) *Division of Securities.* For ordinary recurring expenses of operation .....\$7,500.00

## 22. DEPARTMENT OF INDUSTRIAL RELATIONS

(a) *Office of the Commissioner.* For ordinary recurring expenses of operation .....\$9,000.00

(b) *Workmen's Compensation Board.* For ordinary recurring expenses of operation .....\$60,000.00

(c) *Kentucky State Employment Service.* For ordinary recurring expenses of operation .....\$30,000.00

## 23. DEPARTMENT OF MINES AND MINERALS

(a) *Division of Coal Mining.* For ordinary recurring expenses of operation .....\$25,000.00

(b) *Division of Geology.* For ordinary recurring expenses of operation .....\$12,000.00

## 24. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

(a) *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded,

however, after it has been paid into the State Treasury except by authority of a Court Order or a written opinion from the Attorney General and approved by the Commissioner of Finance .....\$10,000.00

(b) *Bonds of Elective Officers.* For payment of premiums on bonds of State officials who are required by law to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State.....\$2,500.00

(c) *Judgments.* For the payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General .....\$10,000.00

(d) *Interest on Land Grant Bonds.* For paying the interest semi-annually on A. and M. Bonds as provided by Section 4591a, Kentucky Statutes .....\$9,900.00

(e) *Frankfort Cemetery.* For the purpose of assisting in the care of graves in the Frankfort Cemetery to be paid to persons authorized by law to receive same .....\$250.00

(f) *Statutes and Codes for Courts.* For paying for replacements and purchase of statutes and codes for the Courts as provided in Section 2432, Kentucky Statutes, .....\$3,000.00

(g) *Jefferson County Fees.* For paying various officials of Jefferson County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance .....\$438,000.00

(h) *Kenton County Fees.* For paying various officials of Kenton County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance .....\$81,900.00

## PART II

## 25. DEPARTMENT OF HIGHWAYS

(a) *State Road Fund.* Established for the purpose of paying all cost of operation and maintenance of the State Highway Department and for carrying on its activities for the fiscal year beginning April 1, 1938, and ending March 31, 1939, there is hereby appropriated to the State Road Fund all the funds now realized out of the State revenues, authorized now by law or that may hereafter be authorized by law, or any additional or other revenues that may be imposed by law for the exclusive benefit of public roads and all funds realized from the Motor Vehicle Registration Tax, the Gasoline Tax, and the Tax on Other Motor Fuels, now collected by law or that may hereafter be imposed or collected by law for the benefit of said department and its activities. Such receipts and revenue shall constitute the State Road Fund.

There is hereby appropriated to the State Highway Department all monies received and placed to the credit of the State Road Fund during the fiscal year ending March 31, 1939, not otherwise appropriated in this Act, for use and benefit of the State Road system in construction, maintenance, and repair of roads.

(b) *Divisions of Records, Equipment, Maintenance, and Construction.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, for ordinary recurring administrative expenses of operation the sum of .....\$600,000.00

(c) *Division of Rural Highways.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, to be used by the Division of Rural Highways for the improvement, reconstruction, and maintenance of County roads and bridges which have not been accepted by the State Highway Commission for maintenance. Said appropriation to be expended in accordance with Chapter 5, Acts of the General Assembly, 1936 .....\$2,000,000.00

(Of this amount, not more than 10 per cent may be used for administrative purposes for the Rural Highway Division in the Highway Department.)

(d) *Office Buildings.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, for the extraordinary expense and capital outlay in erecting a State office building in which the State Department of Highways and its divisions will be housed .....\$250,000.00

(e) *Division of Highway Patrol.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, for the ordinary recurring expenses of operation of the Highway Patrol, as provided by law .....\$300,000.00

## 26. DEPARTMENT OF REVENUE

(a) *Administration of Gasoline Tax, Motor Vehicle Registration Tax and Tax on Other Motor Fuels.* There is hereby appropriated out of the State Highway Road Fund to the Department of Revenue for the fiscal year ending June 30, 1939, for ordinary recurring expenses of operating, administering, and enforcing the laws pertaining to the Gasoline Tax, the laws pertaining to the Motor Vehicle Registration Tax, and the laws pertaining to Other Motor Fuels .....\$130,000.00

## 27. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Motor Transportation.* There is hereby appropriated out of the State Highway Fund for the fiscal year ending June 30, 1939, for the use of the Department of Business Regulations, Division of Motor Transportation, for ordinary recurring expenses of operation .....\$52,000.00

## PART III

### REVOLVING, TRUST AND AGENCY FUNDS

There is hereby appropriated to the various professional boards or other boards, commissions, institutions, agencies,

or subdivisions of the State Government for the fiscal year ending June 30, 1939, all of the fees (which include fees for board and room, athletic, student activities) and rentals, admittances, sales, licenses collected by law, contributions, gifts, subventions, and other miscellaneous receipts produced by any of the following professional boards, or other boards, commissions, institutions, agencies, and subdivisions of the State Government, for the use and benefit for each of the below-named professional boards, or other boards, commissions, institutions, agencies and subdivisions of the State Government, the receipts which are received by each of the respective professional boards, or other boards, commissions, institutions, agencies or subdivisions of the State Government; which receipts are placed to the credit of a Revolving Fund (Minor fund) out of which shall be established separate Revolving Fund Accounts for the use and benefit of each separate professional Board or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government. The fund accredited to each shall not exceed at any time the amount of receipts received from the separate professional board of other boards, commission, institution, agency, and/or subdivision of the State Government, credited to the Revolving Fund by each professional Board or other board, commission, institution, agency, and/or subdivision of the State Government. Withdrawal from the said Revolving Fund by each of the said professional boards, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government may be made when and if needed for ordinary recurring expenses of operation, properly approved by the Department of Finance, Division of Accounts and Control, and said requisitions shall not be approved unless there is to the credit of the Revolving Fund of such professional Board, or other board, commission, institution, agency and/or subdivision of the State Government, a free and unencumbered sum equal to the amount of the requisitions. The total amount any agency may requisition from the Revolving Fund Account



through the Department of Finance, shall not during the fiscal year ending June 30, 1939, exceed the amount placed to the credit of the Revolving Fund, out of which has been established a Revolving Fund Account for each separate agency during the fiscal year July 1, 1938, to June 30, 1939, inclusive, plus any balance which said professional board, or other board, commission, institution, agency, and/or subdivision of the State Government may have had transferred from the preceding year, on or before September 30, of the then current fiscal year by the Department of Finance.

#### DEPARTMENT OF TREASURY—

Division of Louisville Securities Office

#### DEPARTMENT OF FINANCE—

Division of Post-Audit.

Duplicating Section.

Truck Licenses—County Portion. There shall be credited to this fund for the purpose of distribution to counties such portion of truck licenses as is now provided by law, at such times as the Department of Finance may order.

#### DEPARTMENT OF REVENUE—

Operators' Licenses. There shall be credited to this fund such receipts as are specifically provided for under Section 2739M-34, Kentucky Statutes.

Back Tax Section. (Delinquent Taxes.) There shall be credited to this Revolving Fund such fees or revenues as provided for by Section 4257a-5.

#### DEPARTMENT OF CONSERVATION—

Division of State Parks.

Division of Forestry (Federal).

Division of Game and Fish Commission.

Division of Publicity.

## DEPARTMENT OF HEALTH—

Department of Health—General.  
Hazelwood Sanatorium.  
Kentucky Crippled Children's Commission.

## DEPARTMENT OF WELFARE—

Division of Hospitals and Mental Hygiene.  
Division of Corrections.  
Division of Child Welfare.  
Division of Public Assistance.

## DEPARTMENT OF EDUCATION—

Division of General Education Board.  
Jeannes Fund.  
Rosenwald Fund.  
Slater Fund  
George-Deen Fund.  
Smith-Hughes Fund.  
Vocational Rehabilitation—Federal.  
Vocational Rehabilitation—Private.  
Kentucky State Industrial College.  
State Board of Education—Investment Fund.  
School for Deaf.  
Workshop for the Adult Blind.  
University of Kentucky.  
Eastern Kentucky State Teachers College.  
Morehead State Teachers College.  
Murray State Teachers College.  
Western Kentucky State Teachers College.

## DEPARTMENT OF LIBRARY AND ARCHIVES—

Kentucky Historical Society.  
Library Extension Division.

## DEPARTMENT OF BUSINESS REGULATIONS—

The salary of the secretary and other recurring expenses of operation for the Division of Supervision of Professional

Regulation in the Department of Business Regulation shall be fixed by the Department of Finance, and shall be paid by assessments made against the funds of the professional agencies and boards under the Department of Business Regulation. The assessments shall be determined and fixed by the Department of Finance.

State Board of Accountancy.

State Board of Examiners and Registration of Architects.

State Board of Barber and Beautician Examiners.

State Board of Chiropractic Examiners.

State Board of Dental Examiners.

State Board of Embalmers

State Board of Pharmacy.

State Board of Examiners of Trained Nurses.

State Board of Veterinary Examiners.

Insurance Examiners Expense.

State Board of Bar Examiners.

#### PUBLIC SERVICE COMMISSION—

Out of fees collected by the Public Service Commission as provided by Chapter 145, Regular Session of the 1934 General Assembly, a sum of \$75,000.00 for the fiscal year ending June 30, 1939, is appropriated for the payment of salaries of the commissioners, employees, council for commissioners, secretary, and other ordinary recurring expenses necessary to enable the Commission to perform all of the functions and duties of said Commission as provided by law.

#### KENTUCKY REAL ESTATE BOARD.

#### DEPARTMENT OF INDUSTRIAL RELATIONS—

Division of Unemployment Compensation (Federal).

Kentucky State Employment Service.

#### JEFFERSON COUNTY MASTER COMMISSIONERS.

#### NOT OTHERWISE CLASSIFIED—

Truck License Refunds.

There is hereby appropriated out of the General Expendi-

ture Fund for the fiscal year beginning July 1, 1939, and ending June 30, 1940, the following sums for the following officers, departments, boards, commissions, institutions, and subdivisions of the State Government, printing of county record books, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees, and any and all other agencies of the State Government of the Commonwealth of Kentucky, subject to the provisions of the Reorganization Act of the 1936 General Assembly, for which these specific appropriations are herein listed, excepting those listed in Parts I and II, for the following purposes:

## PART I

### 1. INDEPENDENT AGENCIES

(a) <i>Legislative Sessions.</i> For ordinary recurring expenses of operation .....	\$150,000.00
(b) <i>Legislative Council.</i> For ordinary recurring expenses of operation .....	\$5,000.00
(c) <i>The Council of State Governments.</i> For aiding in the defraying expenses of this Agency.....	\$250.00
(d) <i>Board of Election Commissioners.</i> For ordinary recurring expenses of operation.....	\$500.00
(e) <i>Presidential Electors.</i> Per Diem and ordinary recurring expenses of operation .....	\$700.00
(f) <i>Railroad Commission.</i> For ordinary recurring expenses of operation .....	\$18,000.00

### 2. LIEUTENANT GOVERNOR

(a) <i>Lieutenant Governor.</i> For ordinary recurring expenses of operation .....	\$1,000.00
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### 3. JUDICIARY AND COURT COSTS

(a) <i>Court of Appeals.</i> For ordinary recurring expense of operation .....	\$34,000.00
(b) <i>Clerk of Court of Appeals.</i> For ordinary recurring expense of operation .....	\$16,000.00

(c) *Judicial Council.* For ordinary recurring expense of operation .....\$800.00

(d) *Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, Commissions on Fines and Forfeitures.* For ordinary recurring expense of operation of the laws applicable to Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, and Commissions on Fines and Forfeitures.....\$1,315,300.00

(e) *Salaries of Judges and Commonwealth Attorneys.* For ordinary recurring expense of operation.....\$275,000.00

(f) *Return of Escaped Convicts.* For ordinary recurring expense of operation for paying for returning escaped convicts authorized by the Governor, which have not been previously paid .....\$3,000.00

(g) *Rewards.* For payment of rewards authorized by the Governor of the Commonwealth.....\$100.00

#### 4. EXECUTIVE DEPARTMENT

(a) *Governor.* For ordinary recurring expense of operation .....\$16,000.00

(b) *Executive Cabinet.* For ordinary recurring expense of operation .....\$4,000.00

(c) *Contingent Fund.* For ordinary recurring contingent and maintenance expense of operation.....\$6,000.00

(d) *General Emergency Fund.* For meeting ordinary recurring and extraordinary expenses deemed emergencies by the Governor of the Commonwealth to be expended by the Governor to meet any emergency that may arise, which requires the expenditure of any part of said fund.....\$200,000.00

#### 5. DEPARTMENT OF STATE

(a) *Secretary of State.* For ordinary recurring expense of operation .....\$19,300.00

(b) *Land Office.* For ordinary recurring expense of operation .....\$1,200.00



## 6. DEPARTMENT OF LAW

(a) *Attorney General*. For ordinary recurring expense of operation .....\$38,000.00

(b) *Cost of Suits*. For extraordinary expense of operation, and paying clerks, sheriffs, public officials, and other necessary expenses in discharging the State's obligation in prosecuting in the interest of the State, as required by law, and subject to the approval of the Department of Finance .....\$8,000.00

## 7. DEPARTMENT OF TREASURY

(a) *State Treasurer*. For ordinary recurring expense of operation .....\$31,000.00

Of this amount no sum shall be used for printing checks used by the State Highway Department, and for paying recipients of Old Age Assistance. These costs shall be borne by the respective departments.

(b) *Custodian of Securities*. For ordinary recurring expense of operation .....\$600.00

## 8. AUDITOR OF PUBLIC ACCOUNTS

(a) *Auditor of Public Accounts*. For ordinary recurring expense of operation .....\$48,000.00

Of this amount, each item shall not exceed the amount specified below:

To be expended by the Auditor of Public Accounts from July 1, 1939, to the first Monday in January, 1940.....\$25,000.00

To be expended by the Auditor of Public Accounts from the first Monday in January, 1940, to June 30, 1940.....\$23,000.00

## 9. DEPARTMENT OF FINANCE

(a) *Office of the Commissioner, Division of the Budget, Division of Personal Efficiency, Division of Accounts and Control, Division of Post-Audit, Division of Purchases and Public Property*. For ordinary recurring expenses of opera-

tion of the various divisions within the Department of Finance, and the administration of Confederate Pensions, and Public Printing .....\$246,799.00

(a) For extraordinary expense and capital outlay .....\$5,000.00

(b) *Public Printing Costs (Contractual Services)*. For ordinary recurring expenses of paper and printing costs, not a specific charge against other budget units .....\$16,000.00

(c) *Public Record Books (Paper and Printing)*. For ordinary recurring expenses necessary in the purchase and replacement of public record books during the fiscal year ending June 30, 1940 .....\$20,925.00

(d) *Registration Books and Supplies*. For ordinary recurring expenses in purchasing additional registration books and supplies as required by the State-wide Registration Act of 1936 Regular Session .....\$500.00

(e) *Paper for Printing Election Ballots*. For ordinary recurring expenses in furnishing paper for ballots for State elections as required by law .....\$8,000.00

(f) *Paper (Revolving Fund)*. To be used for the purchase of paper to be held in stock until charges for paper used by the budget classes are made against the various budget units .....\$20,000.00

(g) *Postage (Revolving Fund)*. To be used for the purchase of postage to be held in stock until charges for postage used by the budget classes are made against the various budget units .....\$10,000.00

(h) *Confederate Pensions*. For ordinary recurring expense in paying pensions now provided for by law.....\$160,000.00

(i) *Interest on Warrants*. For ordinary recurring expense of interest due on outstanding interest-bearing warrants against the Commonwealth .....\$190,000.00

## 10. DEPARTMENT OF REVENUE

(a) *Commissioner of Revenue*. For ordinary recurring

expense of various divisions of the Department of Revenue .....\$320,000.00

(b) *Division of Alcoholic Control.* For ordinary recurring expense of operation .....\$42,000.00

## 11. DEPARTMENT OF REVENUE

### MISCELLANEOUS REVENUE AGENCIES

(a) *County Tax Commissioners.* For ordinary recurring expense of operation .....\$307,000.00

(b) *County Boards of Supervisors.* For ordinary recurring expense of operation .....\$26,500.00

## 12. DEPARTMENT OF CONSERVATION

(a) *Director of Conservation.* For ordinary and recurring expense of operation .....\$6,500.00

(b) *Division of State Parks.* For ordinary recurring expense of operation .....\$30,000.00

Of this \$10,000.00 shall be ear-marked to be expended exclusively in the operation of the Old Kentucky Home Park. Said Home to retain investments now existing for use and benefit of the Old Kentucky Home.

(c) *Division of Forestry.* For ordinary recurring expenses of operation .....\$12,000.00

(d) *Division of Publicity.* For ordinary recurring expenses of operation .....\$20,000.00

## 13. DEPARTMENT OF MILITARY AFFAIRS

(a) *Adjutant-General.* For ordinary recurring expenses of operation .....\$30,000.00

(b) *Veterans' Division.* For ordinary recurring expenses of operation .....\$18,000.00

(c) *Division of Armories.* For ordinary recurring expenses of operation .....\$30,000.00

# 14. DEPARTMENT OF AGRICULTURE, LABOR AND STATISTICS

(a) *Division of Agriculture, Labor and Statistics.* For ordinary recurring expenses of operation .....\$9,500.00

(Of this amount each item shall not exceed the amounts specified below.)

(a1) Salaries of Division of Agriculture.....\$10,500.00

(a2) Office and traveling expenses of Division of Agriculture .....\$5,000.00

(a3) Inspection of Tobacco Warehouses .....\$6,000.00

(It is the intentions of the Legislature to discontinue and repeal the appropriation for eradication of the cornborer.)

(a4) Salaries and other recurring expenses of the Division of Labor and Statistics .....\$8,000.00

(This appropriation is made for the period of July 1, 1939, to the first Monday in January, 1940, at which time the duties and functions will by law be transferred to the Department of Industrial Relations.)

(b) *State Board of Agriculture.* For ordinary recurring expenses of operation and extraordinary expenses by designated law .....\$172,350.00

Of this amount each item shall not exceed the amount specified below:

(b1) Expenses and per diem of Board Members, .....\$2,250.00

(b2) Expenses of Live Stock Sanitary Board, \$20,000.00

(b3) Diseases of Live Stock .....\$1,500.00

(b4) Bang's Disease .....\$4,000.00

(b5) Premiums at Kentucky State Fair from animal licenses .....\$15,000.00

(b6) Operation of Kentucky State Fair.....\$75,375.00

(The Department of Finance shall provide for the establishing of a Revolving Fund sufficient to meet the necessary current operating expense of the Fair for the period covering the week of the Fair.)

(b7) For extraordinary expenses and capital outlay,  
\$4,225.00.

(b8) Premiums for Kentucky State Fair .....\$30,000.00

(b9) Retiring a part of the M. & M. Building Bonded  
indebtedness maturing November 1, 1939 .....\$15,000.00

(The interest on said bonds to be paid from receipts accruing from fees and concessions of said building.)

(b10) Paying Premiums for Boys and Girls Club Work  
and Bourbon Stock Yard Junior Club, and for the promotion  
and encouragement of 4-H Club Work, for Kentucky Products  
paid to Kentuckians .....\$5,000.00

## 15. DEPARTMENT OF HEALTH

(a) *Department of Health—General.* For ordinary recurring expenses of operation .....\$150,000.00

(b) *Prevention of Blindness.* For ordinary recurring expenses of operation .....\$2,500.00

(c) *Laboratories.* For ordinary recurring expenses of operation .....\$5,000.00

(d) *County Health Units and Departments.* For ordinary recurring expenses of operation .....\$244,500.00

(e) *Visiting Nurses.* For ordinary recurring expenses of operation .....\$6,000.00

(f) *Hazelwood Sanatorium.* For ordinary recurring expenses of operation .....\$44,000.00

(g) *Interest on Bonds.* For extraordinary expense of interest on Hazelwood Sanatorium Bonds .....\$8,400.00

(h) *Kentucky Crippled Children's Commission.* For ordinary recurring expenses of operation.....\$85,000.00

## 16. DEPARTMENT OF WELFARE

(a) *Commissioner of Welfare.* For ordinary recurring expenses of operation of the charitable and penal institutions and the administration of the Department of Welfare, including probation and parole .....\$1,700,000.00



(b) *Home for Incurables.* For ordinary recurring expenses of operation .....\$15,000.00

(c) *Colored Red Cross Hospital.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare .....\$4,000.00

(d) *Kentucky Children's Home Society—White.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare .....\$60,000.00

(e) *Kentucky Children's Home Society—Colored.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare .....\$20,000.00

(f) *Division of Public Assistance.* For ordinary recurring expenses of operation, and in cooperation with the Federal Government under the Social Security Act approved August 14, 1935, and for the administration of Old Age Assistance under House Bill No. 427, 1936 Regular Session, and in cooperation with Child Welfare, and Aid to the Blind programs .....\$3,000,000.00

(g) *New Lands and Buildings.* For extraordinary expenses and capital outlay .....\$1,369,561.55

(Of this amount \$200,000.00 may be used for the restoration, repair, replacements, equipment and improvement of the charitable and penal institutions under the Department of Welfare. The remainder to be used for erecting and equipping new Welfare Institutions.)

(h) *Emergency Relief.* For extraordinary expenses which constitute special emergencies and for the relief of indigent persons in the Commonwealth not otherwise provided for by any other agency of the State, said fund to be administered and expended by the Governor of the Commonwealth .....\$150,000.00

(i) *Conveyance of Lunatics.* For ordinary recurring expenses of operation .....\$9,000.00

(j) *Pauper Idiots.* For ordinary recurring expenses of operation .....\$60,000.00

(k) <i>Julius Marx Sanitorium.</i> For ordinary recurring expenses of operation as provided for in Section 2061a-28, Kentucky Statutes .....	\$9,000.00
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## 17. DEPARTMENT OF EDUCATION

(a) <i>Superintendent of Public Instruction.</i> For ordinary recurring expenses of operation .....	\$60,000.00
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(b) <i>Division of Certification.</i> For ordinary recurring expenses of operation .....	\$15,000.00
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(c) <i>State Board of Education.</i> For ordinary recurring expenses of operation .....	\$15,000.00
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(d) <i>State Text-Book Commission.</i> For ordinary recurring expenses of operation .....	\$2,500.00
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(e) <i>Common School Per Capita Fund.</i> For the payment of Teachers' salaries, and other expense incidental to the operation and maintenance of the public schools of the State .....	\$9,561,061.84
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(f) <i>Interest on State School Bonds.</i> For payment as provided by the Constitution for the support of the Common Schools, which amount shall be used to supplement the appropriation for common school per capita.....	\$138,938.16
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(g) <i>Free Text Books.</i> For purchase of text books as provided in Chapter 49, Acts of 1928.....	\$500,000.00
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(h) <i>War Orphan and Scholarship Fund.</i> For the purpose of carrying out the provision of Sections 4376b-11 and 4527-31, Kentucky Statutes .....	\$1,400.00
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(i) <i>Vocational Education.</i> For ordinary recurring expenses of operation under the provision of existing laws .....	\$25,000.00
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(j) <i>Vocational Rehabilitation.</i> For ordinary recurring expense of operation in rehabilitating persons disabled in industry, or otherwise .....	\$21,380.55
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(k) <i>Kentucky State Industrial College.</i> For ordinary recurring expense of operation .....	\$110,000.00
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(kl) For extraordinary expense and capital outlay .....	\$50,000.00
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This entire amount shall be used for the purpose of erecting a dormitory at the institution. Expenditure shall be made in accordance with the Reorganization Act governing the expenditure of funds for capital outlay purposes and may be anticipated for contractual purposes.

(l) *College Tuition for Negroes.* For extraordinary expenses of paying college tuition of Negro students required to go out of the State to obtain higher education training .....\$5,000.00

(m) *Kentucky School for the Blind—White.* For ordinary recurring expenses of operation.....\$61,500.00

(n) *Kentucky School for the Blind—Colored.* For ordinary recurring expense of operation .....\$7,000.00

(o) *Kentucky School for the Blind—Workshop.* For ordinary recurring expense of operation.....\$14,800.00

(p) *Kentucky School for the Deaf—White.* For ordinary recurring expense of operation .....\$110,000.00

(q) *Kentucky School for the Deaf—Colored.* For ordinary recurring expense of operation .....\$8,500.00

## 18. UNIVERSITY OF KENTUCKY

(a) *Division of Colleges.* For ordinary recurring expense of operation .....\$775,000.00

(a-1) For extraordinary expense of capital outlay .....\$158,000.00

Of this amount each item shall not exceed the amount specified below:

Repairs for Buildings .....\$8,000.00

Library Equipment .....\$30,000.00

Scientific Laboratory Equipment .....\$60,000.00

Engineering Equipment .....\$60,000.00

(b) *College of Agriculture.* For ordinary recurring expense of operation .....\$24,000.00

(c) *Summer School.* For ordinary recurring expense of operation .....\$8,000.00

(d) <i>Experiment Station.</i> For ordinary recurring expense of operation .....	\$48,000.00
(e) <i>Service Laboratory.</i> For ordinary recurring expense of operation .....	\$21,000.00
(f) <i>Nursery Inspection.</i> For ordinary recurring expense of operation .....	\$2,000.00
(g) <i>Princeton Sub-Station.</i> For ordinary recurring expense of operation .....	\$14,000.00
(h) <i>Quicksand Sub-Station.</i> For ordinary recurring expense of operation .....	\$14,000.00
(i) <i>Agriculture Extension Work.</i> For ordinary recurring expense of operation .....	\$120,000.00

#### 19. STATE TEACHERS COLLEGES

(a) <i>Eastern Kentucky State Teachers College.</i> For ordinary recurring expense of operation.....	\$241,000.00
(a1) For extraordinary expenses and capital outlay .....	\$79,000.00

Of this amount each item shall not exceed the amount specified below:

Repairs and improvement of buildings .....	\$4,000.00
Erection of new buildings .....	\$75,000.00
(This item may be anticipated for contractual purposes.)	
(b) <i>Morehead State Teachers College.</i> For ordinary recurring expenses of operation .....	\$193,000.00
(c) <i>Murray State Teachers College.</i> For ordinary recurring expenses of operation .....	\$219,400.00
(c1) For extraordinary expenses and capital outlay .....	\$37,500.00
(This amount may be anticipated for contractual purposes.)	
(d) <i>Western Kentucky State Teachers College.</i> For ordinary recurring expenses of operation.....	\$340,000.00
(d1) For extraordinary expense and capital outlay .....	\$40,000.00

## 20. DEPARTMENT OF LIBRARY AND ARCHIVES

(a) *Law Librarian*. For ordinary recurring expenses of operation .....\$8,300.00

(b) *Law Library—Books*. For ordinary recurring expenses of operation, as provided for under Section 2440, Kentucky Statutes .....\$3,500.00

(c) *Library Sales Account—Kentucky Reports*. For extraordinary expense of paying the costs of publishing the Kentucky Reports and pamphlets of opinions of the Court of Appeals, as provided for under Section 955a-9, Kentucky Statutes .....\$15,800.00

(d) *Distribution and Repair of Books*. For ordinary recurring expenses of operation .....\$500.00

(e) *Division of Library Extension*. For ordinary recurring expenses of operation .....\$10,000.00

(f) *Kentucky State Historical Society*. For ordinary recurring expenses of operation .....\$7,715.00

## 21. DEPARTMENT OF BUSINESS REGULATION

(a) *Division of Athletic Control*. For ordinary recurring expenses of operation .....\$6,500.00

(b) *Division of Banking and Small Loans*. For ordinary recurring expenses of operation .....\$45,000.00

(c) *Division of Insurance*. For ordinary recurring expenses of operation .....\$90,000.00

(d) *Division of Securities*. For ordinary recurring expense of operation .....\$7,500.00

## 22. DEPARTMENT OF INDUSTRIAL RELATIONS

(a) *Office of the Commissioner*. For ordinary recurring expenses of operation .....\$9,000.00

(b) *Labor and Statistics*. For ordinary recurring expenses of operation after the first Monday in January, 1940, to June 30, 1940 .....\$8,000.00



(c) *Workmen's Compensation Board.* For ordinary recurring expenses of operation.....\$60,000.00

(d) *Kentucky State Employment Service.* For ordinary recurring expenses of operation .....\$30,000.00

## 23. DEPARTMENT OF MINES AND MINERALS

(a) *Division of Coal Mining.* For ordinary recurring expenses of operation .....\$25,000.00

(b) *Division of Geology.* For ordinary recurring expenses of operation .....\$12,000.00

## 24. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

(a) *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded however, after it has been paid into the State Treasury except by authority of a Court Order or a written opinion from the Attorney General and approved by the Commissioner of Finance .....\$10,000.00

(b) *Bonds of Elective Officers.* For payment of premiums on bonds of State officials who are required by Statutes to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State .....\$2,500.00

(c) *Judgments.* For the payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General.....\$10,000.00

(d) *Interest on Land Grant Bonds.* For paying the interest semi-annually on A. and M. Bonds as provided by Section 4591a, Kentucky Statutes.....\$9,900.00

(e) *Frankfort Cemetery.* For the purpose of assisting in the care of graves in the Frankfort Cemetery and to be paid to persons authorized by law to receive same.....\$250.00

(f) *Statutes and Codes for Courts.* For paying for replacements and purchase of statutes and codes for the

Courts as provided in Section 2432, Kentucky Statutes .....\$3,000.00

(g) *Jefferson County Fees.* For paying various officials of Jefferson County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance .....\$438,000.00

(h) *Kenton County Fees.* For paying various officials of Kenton County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in form and manner prescribed by law and approved by the Commissioner of Finance .....\$81,900.00

## 25. DEPARTMENT OF HIGHWAYS

(a) *State Road Fund.* For the purpose of paying all cost of operation and maintenance of the State Highway Department and for carrying on its activities for the fiscal year beginning April 1, 1939, and ending March 31, 1940, there is hereby appropriated to the State Road Fund all the funds now realized out of the State revenues authorized now by law or that may hereafter be authorized by law, or any additional or other revenue that may be imposed by law for the exclusive benefit of public roads and all funds realized from the Motor Vehicle Registration Tax, the Gasoline Tax, and the Tax on other motor fuels, now collected by law or that may hereafter be imposed or collected by law for the benefit of said department and its activities. Such receipts and revenue shall constitute the State Road Fund.

There is hereby appropriated to the State Highway Department, all monies received and placed to the credit of the State Road Fund during the fiscal year ending March 31, 1940, not otherwise appropriated in this act, for the use and benefit of the State road system in construction, maintenance and repair of roads.

(b) *Division of Records, Equipment Maintenance and Construction.* There is hereby appropriated out of the State Highway Fund for the Fiscal year ending March 31, 1940, for ordinary recurring administrative expense of operation .....\$600,000.00

(c) *Division of Rural Highways.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1940, to be used by the Division of Rural Highways for the improvement, reconstruction, and maintenance of County roads and bridges which have not been accepted by the State Highway Commission for maintenance. Such appropriation to be expended in accordance with Chapter 5, Acts of the General Assembly, 1936.....\$2,000,000.00

(Of this amount, not more than 10 per cent may be used for Administrative purposes for the Rural Highway Division in the Highway Department.)

(d) *Division of Highway Patrol.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1940, for ordinary recurring expenses of operation of the Highway Patrol, as provided by law .....\$300,000.00

## 26. DEPARTMENT OF REVENUE

(a) *Administration of Gasoline Tax, Motor Vehicle Registration Tax and Tax on Other Motor Fuels.* There is hereby appropriated out of the State Highway Road Fund to the Department of Revenue for the fiscal year ending June 30, 1940, for the ordinary recurring expense of operating, administering, and enforcing the laws pertaining to the Gasoline Tax, the laws pertaining to the Motor Vehicle Registration Tax, and the laws pertaining to Other Motor Fuels .....\$130,000.00

## 27. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Motor Transportation.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year

ending June 30, 1940, for the use of the Department of Business Regulation, Division of Motor Transportation, for ordinary recurring expenses of operation .....\$52,000.00

### PART III

#### REVOLVING, TRUST, AND AGENCY FUNDS.

There is hereby appropriated to the various professional boards or other boards, commissions, institutions, agencies, or subdivisions of the State Government for the fiscal year ending June 30, 1940, all of the fees (which include fees from board and room, athletics, student activities) and rentals, admittances, sales, licenses collected by law, contributions, gifts, subventions, and other miscellaneous receipts produced by any of the following professional boards or other boards, commissions, institutions, agencies, and subdivisions of the State Government, for the use of benefit of each of the below-named professional boards or other boards, commissions, institutions, agencies, and subdivisions of the State Government, the receipts which are received by each of the respective professional boards or other boards, commissions, institutions, agencies, or subdivisions of the State Government; which receipts are placed to the credit of the Revolving Fund (Minor Funds) out of which shall be established a Revolving Fund Account for the use and benefit of each separate professional board or other boards, commissions, institutions, agencies and/or subdivisions of the State Government. The fund accredited to each shall not exceed at any time the amount of receipts, from a separate professional board, or other board, commission, institution, agency, and/or subdivision of the State Government, credited to the Revolving Fund by each professional board, or other board, commission, institution, agency, and/or subdivision of the State Government. Withdrawal from the said Revolving Fund by each of the said professional boards, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government may be made when and if needed for ordinary recur-

ring expenses of operation, properly approved by the Department of Finance, Division of Accounts and Control, and said requisition shall not be approved unless there is to the credit of the Revolving Fund Account of such professional board, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government, a free and unencumbered sum equal to the amount of the requisitions. The total amount any one professional board or other boards, commission, institution, agency, and/or subdivision of the State Government may requisition from the Revolving Fund Account through the Department of Finance shall not during the fiscal year ending June 30, 1940, exceed the amount placed to the credit of the Revolving Fund, out of which has been established a Revolving Fund Account, during the fiscal year July 1, 1939, to June 30, 1940, inclusive, plus any balance which said professional board, or other boards, commission, institution, agency, and/or subdivision of the State Government may have had transferred from the preceding year, on or before September 30, of the then current fiscal year, by the Department of Finance.

#### DEPARTMENT OF TREASURY—

Division of Louisville Securities Office.

#### DEPARTMENT OF FINANCE—

Division of Post-Audit.

Duplicating Section.

Trucking Licenses—County Portion. There shall be credited to this fund for the purpose of distributing to counties such portion of truck licenses as is now provided by law as ordered by the Department of Finance distributed.

#### DEPARTMENT OF REVENUE—

Operators' Licenses. There shall be credited to this fund such receipts as specifically provided for under Section 2739m-34, Kentucky Statutes.



Back Tax Section. (Delinquent Taxes.) There shall be credited to this Revolving Fund such fees or revenues as provided for by Section 4257a-5.

#### DEPARTMENT OF CONSERVATION—

Division of State Parks.

Division of Forestry (Federal).

Division of Game and Fish Commission.

Division of Publicity.

#### DEPARTMENT OF HEALTH—

Department of Health—General.

Hazelwood Sanitorium.

Kentucky Crippled Children's Commission.

#### DEPARTMENT OF WELFARE—

Division of Hospitals and Mental Hygiene.

Division of Corrections.

Division of Child Welfare.

Division of Public Assistance.

#### DEPARTMENT OF EDUCATION—

Division of General Education Board.

Jeannes Fund.

Rosenwald Fund.

Slater Fund.

George-Deen Fund.

Smith-Hughes Fund.

Vocational Rehabilitation—Federal.

Vocational Rehabilitation—Private.

Kentucky State Industrial College.

State Board of Education—Investment Fund.

School for Deaf.

Workshop for the Adult Blind.

University of Kentucky.

Eastern Kentucky State Teachers College.

Morehead State Teachers College.  
Murray State Teachers College.  
Western Kentucky State Teachers College.

#### DEPARTMENT OF LIBRARY AND ARCHIVES—

Kentucky Historical Society.  
Library Extension Division.

#### DEPARTMENT OF BUSINESS REGULATIONS—

The salary of the secretary and other recurring expenses of operation for the Division of Supervision of Professional Regulation in the Department of Business Regulation shall be fixed by the Department of Finance, and shall be paid by assessments made against the funds of the agencies and boards under the Department of Business Regulation. The assessments shall be determined and fixed by the Department of Finance.

State Board of Accountancy.  
State Board of Examiners and Registration of Architects.  
State Board of Barber and Beautician Examiners.  
State Board of Chiropractic Examiners.  
State Board of Dental Examiners.  
State Board of Embalmers.  
State Board of Pharmacy.  
State Board of Veterinary Examiners.  
State Board of Examiners of Trained Nurses.  
State Board of Bar Examiners.  
Insurance Examiners Expense.

#### PUBLIC SERVICE COMMISSION—

Out of fees collected by the Public Service Commission as provided by Chapter 145, Regular Session of the 1934 General Assembly, a sum of \$75,000.00 for the fiscal year ending June 30, 1940, is appropriated for the payment of salaries of the commissioners, employees, council for commissioners, secretary, and other ordinary recurring expenses necessary to

enable the commission to perform all of the functions and duties of said Commission as provided by law.

#### KENTUCKY REAL ESTATE BOARD.

#### DEPARTMENT OF INDUSTRIAL RELATIONS—

Division of Unemployment Compensation—Federal.

Kentucky State Employment Service.

#### JEFFERSON COUNTY MASTER COMMISSIONERS.

#### NOT OTHERWISE CLASSIFIED—

Truck License Refunds.

The following Sections, 28, 29, 30, 31, and 32, are enacted and apply to Parts I, II, and III of the appropriations for the fiscal year ending June 30, 1939, and apply to Parts I, II, and III of the appropriations for the fiscal year ending June 30, 1940.

#### 28.

All receipts, fees, and/or revenue, regardless of whether heretofore specified in this Act, of every department, board, commission, institution, agency, division, or subdivision of the State Government shall be covered into the State Treasury immediately after the close of each month through the Department of Finance and placed to the credit of the General Expenditure Fund, excepting those revenues which are specifically allocated to the State Road Fund or the Revolving Fund which shall be credited to their respective funds as provided for in this Act. The fees, receipts, and/or revenue of every officer, department, division, subdivision, commission, board, institution, or agency of the State Government shall be covered into the State Treasury immediately after the close of each month, and placed to the credit of the General Expenditure Fund and shall be used to defray the expenses of the State Government, and the appropriations made from the General Expenditure Fund in this Act, unless otherwise specifically appropriated to one of the professional boards, commissions, institutions, agencies, or subdivisions of the

State Government for Revolving Fund purposes; such agencies shall be only those that are listed in this Act as having been approved for Revolving Fund Accounts.

## 29.

The appropriations herein made for the ordinary recurring expenses and extraordinary expense and capital outlay for any officer, department, board, commission, institution, and subdivision of the State Government of the Commonwealth of Kentucky shall not be available for expenditure until allotted as now provided by law, and such appropriations as are specifically made in this Act are hereby declared to be maximum and conditional appropriations except when the Governor determines an emergency exists in any department, board, commission, institution, or subdivision of the State Government requiring an additional allotment of funds to be made from the General Emergency Fund hereby placed at his disposal and made a specific appropriation to be used by him to meet existing emergencies so determined by him. This appropriation is designated under Section 4, "EXECUTIVE DEPARTMENT", as Item (a), Part I, for the fiscal year ending June 30, 1939, and Section 4, Part I, for the fiscal year ending June 30, 1940, of this Act.

Since the actual needs of each officer, department, board, Commission, institution, or subdivision, of the State Government, can only be anticipated and not finally determined by the Legislature, and since the total amount of revenue accruing to the General Expenditure Fund from which these appropriations are hereby made can only be anticipated through existing law, and those that may hereafter be enacted, it is the purpose and intention of the Legislature that the State expenditures for each fiscal year covered in this Act shall not exceed the total revenues accruing to the General Expenditure Fund for the same fiscal year. To carry out this provision, the intention and purpose of the Legislature, upon the determination

of the conditions set forth to wit: The needs of each officer, department, board, commission, institution, or subdivision of the State Government, and the total revenue accruing to the General Expenditure Fund, the condition can not be finally determined until after adjournment of this session of the Legislature, the Governor of the Commonwealth of Kentucky is hereby authorized, empowered and directed to ascertain the needs of each officer, department, board, commission, institution, or subdivision of the State Government, and to ascertain the total revenues accruing to the General Expenditure Fund of the Commonwealth, and upon the ascertainment of said facts, he, the Governor is hereby authorized, empowered, and directed by the Legislature to prevent an overdraft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, without discrimination, the appropriations herein made to any officer, department, board, commission, institution, or subdivision of the State Government; provided that the power hereby invested and granted to the Governor shall not permit any reduction of the appropriation of any officer, department, board, commission, institution or subdivision of the State Government that will actually impair the necessary governmental functions of any agency whose operations and functions are determined to be a necessary governmental function.

## 30.

To carry out the purpose of this Act for the biennium beginning July 1, 1938, and ending June 30, 1940, the State Budget Officer, with the approval of the Commission of Finance, is hereby empowered and granted the authority to make allotments and/or re-allotments from appropriations made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government, so as to prevent an over-draft, or a deficit in any fiscal year for which appropriations are herein, made, and to prevent the maximum appropriation made to any officer, department,



board, commission, institution, or subdivision of the State Government from being exceeded.

## 31.

In enacting this Budget Appropriation Law, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof, as a separate and/or specific appropriation and law, and if any section or any subsection thereof shall be held invalid, or unconstitutional, the decision of the courts shall not effect or impair any of the remaining sections, subsections, or provisions contained herein.

## 32.

All continuing appropriations in existence at the time of this Act are hereby discontinued and repealed by this Act. All laws and parts of laws in conflict with any of the provisions of the above enactments, to the extent of such conflict, are hereby repealed.

To Committee on Appropriations.

Senator Gilbert moved that the Senate do now recess for ten minutes.

Said motion was agreed to.

And the Senate recessed.

At the expiration of the above mentioned time the President of the Senate resumed the chair and called the Senate to order.

## REPORT OF COMMITTEES

The Committee on Appropriations, to which same had been previously referred, reported the following bill with the expression of opinion that same should pass, viz.:

S. B. 1. An Act appropriating money for the operation, maintenance, support and functionings of the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government of the Commonwealth of Kentucky, and the purchase of record books, as provided by Section 338, Kentucky Statutes, 1936 Edition, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County fees, and defraying the expenses of any and all other State obligations for the fiscal years ending June 30, 1939, and June 30, 1940, designating the sources and funds from which said appropriations are to be made, describing the manner in which the same are to be paid, providing for the payment into the State Treasury of all fees and other miscellaneous receipts collected by all the different officers, departments, boards, commissions, institutions, and subdivisions of the State Government, which include all the different agencies of the State, providing for the establishment of certain revolving funds specifically mentioned, providing for money refund, authorizing and empowering the Governor of the Commonwealth to equitably reduce, or adjust the appropriations made to officers, departments, boards, commissions, institutions, and subdivisions of the State and all other agencies specifically mentioned therein and authorizing the State Budget Officer with the approval of the Commissioner of Finance to make allotments and/or re-allotments from appropriations made to the various officers, departments, boards, commissions, institutions and subdivisions of the State Government and other agencies, and authorizing transfers from allowances from one budget class to allowances in another budget class within the same budget unit, when approved by the Commissioner of Finance providing that certain appropriations shall be limited to specific purposes, barring the use of appropriations for certain purposes and repealing all blanket and continuing appropriations not provided for in this Act, and all appropriations made by any previous act, or acts, or the General Assembly of the

Commonwealth of Kentucky, and repealing all laws or parts of laws in conflict with any of the provisions therein and enacting each section and each sub-section as a separate or specific appropriation.

Said bill was then read at length for the first time and ordered to be placed in the Calendar.

Senator Tackett then moved that the rules be suspended for the purpose of introducing a bill.

Said motion was agreed to.

Whereupon, Senator Tackett offered the following bill, viz.:

S. B. 2. An Act creating and establishing as a part of the Primary System of Highways of the Commonwealth of Kentucky, a road from the mouth of Abner Fork of Left Beaver Creek, in Floyd County, Kentucky, to the mouth of Marshall's Branch of Long Creek in Pike County, Kentucky.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as a part of the primary system of State highways of the Commonwealth of Kentucky a road from the mouth of Abner Fork of Left Beaver Creek in Floyd County, Kentucky, up Left Beaver Creek to Weeksbury, Kentucky; thence up Caleb Fork of Left Beaver Creek to the head of same and continuing across the mountain and down Marshall's Branch of the Long Fork Creek to the mouth of said Marshall's Branch in Pike County, Kentucky.

Whereas Weeksbury, Kentucky, has a population of approximately 2,500 and said road is in bad repair, an emer-

gency is declared to exist and this Act shall become effective immediately upon approval by the Governor.

Said bill was referred by the President of the Senate to the Committee on Roads and Highways.

Senator King offered the following resolution, viz.:

S. RES. NO. 4.

A Resolution expressing the appreciation of the Kentucky Senate to the Honorable A. B. Chandler, Governor of the Commonwealth of Kentucky, for the many improvements made by him in the Senate Chamber for the convenience of the Senators.

Whereas, the Honorable A. B. Chandler, Governor of the Commonwealth of Kentucky, has allocated from his contingent emergency fund a substantial sum of money for the improvement and renovation of the Senate Chamber prior to the convening of the 1938 regular session of the General Assembly; and,

Whereas, the renovation as completed under the supervision and direction of the Governor, has resulted in the Kentucky Senate now having a very comfortable and beautiful chamber that will enable them to promptly and properly dispose of all business that may come before them, to the best interest of the Commonwealth, and which will also reflect credit upon the Commonwealth of Kentucky from all visitors who may attend the 1938 and succeeding sessions of the Senate, Now, Therefore,

*Be it Resolved by the Senate of Kentucky:*

1. That the changes made in the Senate Chamber have resulted in an increase of the beauty of the State Capitol and will result in the work being expedited.

2. That the Senate desires to express its sincere appreciation to the Honorable A. B. Chandler, Governor of the

Commonwealth of Kentucky, for his thoughtfulness and kindness in providing for the comfort and convenience of the Senate and in allocating the funds necessary to effect the necessary changes.

3. Be it further resolved that a copy of these resolutions be spread at large upon the minutes of the proceedings of the Senate and a copy thereof forwarded to the Honorable A. B. Chandler, Governor of the Commonwealth of Kentucky.

Said resolution was adopted.

Without objection a leave of absence was granted to Senator Joe P. Tackett until Monday, January 10th, 1938.

Senator Gilbert moved that the Senate do now adjourn to meet again at 10:00 A. M., January 5th, 1938.

Said motion was agreed to.

And then the Senate adjourned.

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### WEDNESDAY, JANUARY 5, 1938

The Senate convened and was called to order by the President of the Senate, the Honorable Keen Johnson, Lieutenant Governor.

The Senate was opened with prayer by the Reverend Fred T. Moffat, pastor of the First Baptist Church, Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	Paul M. Basham	Ollie J. Bowen
Aubrey Barbour	H. Stanley Blake	Dr. D. H. Bush



Waller A. Crockett	J. W. McDonald	John A. Sugg, Jr.
Edwin C. Dawson	Stanley B. Mayer	J. E. Trager
W. C. Farmer	Strother Melton	Ervine Turner
Lee Gibson	E. C. Moore	Thomas O. Turner
Ralph Gilbert	J. Lee Moore	E. T. Wesley
John M. Hall	Dr. R. C. Moss	Otis White
J. Joseph Hettinger	Ray B. Moss	O. C. Whitfield
H. Watt Hillman	James C. Rogers	B. M. Williams
Wm. H. Jones, Jr.	Ira W. See	J. E. Wise
Leo King	Paul L. Sidebottom	J. M. Wolfenbarger

Senator See moved that the rules be suspended and the privilege of the floor be extended to Mrs. Forest Preston of Paintsville, Kentucky.

Said motion was unanimously agreed to.

Senator Ray B. Moss moved that the rules be suspended and the privilege of the floor be extended to former Senator Alex Y. Johnson of Louisville, Kentucky.

Said motion was unanimously agreed to.

Senator Dawson moved that the rules be suspended and the privilege of the floor be extended to Mr. J. P. Barnes of Bardstown, Kentucky.

Said motion was unanimously agreed to.

Senator Ervine Turner moved that the rules be suspended and the privilege of the floor be extended to Mr. Edgar Quicksall of Jackson, Kentucky and Mr. Hunter Schumate.

Said motion was unanimously agreed to.

Senator Gilbert moved that the reading of the Journal of the proceedings of Tuesday, January 4th, 1938, be dispensed with and the same be approved.

Said motion was agreed to.

Senator Barbour offered the following resolution, viz.:

S. Res. No. 6.

Since the last convention of the Senate, G. W. Ragan, one of its honored and respected members has passed on. He was born in Kenton County, Kentucky April 19, 1865, the son of Elias and Elizabeth Carter Ragan. Upon graduating in medicine, he moved to the adjoining county of Campbell, and there practiced his profession until his death, September 27, 1937. He married Effie M. Riggs, who with his two sons, survive him.

He was elected from Campbell County to the Senate in 1931, and was serving his second successive term in this body when he died.

THEREFORE, *Be It Resolved*, That we deplore his loss and by this action recognize his sterling worth, his upright character, and his worthwhile services to the people of his county and state rendered in this legislative body.

But, *Be It Known*, That these formal words of Resolution can not fully speak the feelings and emotions that surge within us when we recall our association with him; when memory evokes his presence, while the mind notes his absence.

Simplicity, honesty, loyalty to principle and to friend, and courage, marked his character and guided his actions. His simplicity was the candor of wisdom; his honesty was positive and forthright, his loyalty never wavered, because it was never pledged until experience and knowledge had ascertained that its object was worthy and right.

His courage gave him poise; his restful placidness betokened strength, not weakness. He was not afraid of life; he was not fearful of death.

He, who in the practice of his profession, had so often witnessed the miracle of birth and the miracle of death, was not afraid to die. He knew, 'tis more natural to die than to be born.

The Persian Poet said:

"We are no other than a moving row of magic shadow shapes that come and go about this sun illum'd lantern held in midnight by the Master of the Show."

But, while groping for the door to which he found no key, he also said:

"I sometimes think, that ne'er grows the rose so red  
As where some buried Caesar bled, that every hyacinth  
The garden wears dropped in her lap some once  
Lovely head."

Let the imagery of the Persian quicken the expression of our thought. What a garden of beauty and of perfume would grow and blossom from the ashes of our friend. There would bloom not the red rose from a Caesar's blood, but a rose, all white, exhaling a perfume of purity and peace; not the hyacinth, but the lilac, significant of modesty, and the lily of the valley, symbolic of sympathy and service. In wild profusion the daisies would riot there, emblematic of his friendship, and here and there would be found a forget-me-not.

With courage he met the pleasure and pain of life. With courage he approached the portals of death. He was assured with philosophy of Maeterlink, that death is a vast and wonderful adventure. He was assured with the teaching of Christ, of a glorious resurrection.

Let this action of the Senate of the Commonwealth of Kentucky attest our appreciation of his high qualities; attest the love inspired his companionship; and let its inscription upon the Journal be our humble tribute to his memory.

AUBREY BARBOUR

J. E. WISE

WM. H. JONES, JR.

OLLIE J. BOWEN

JAMES C. ROGERS

T. O. TURNER

LEE GIBSON

RAY B. MOSS

Said resolution was adopted.

Senator Barbour moved that said resolution as adopted be spread upon the Journal of the Senate and that a copy of same be forwarded to the widow of Senator Ragan.

Said motion was agreed to.

Senator Gilbert of the Committee on Rules, whose duty it is to draft rules by which the Senate shall be governed in its deliberations for the duration of this Regular Session of the General Assembly of Kentucky for 1938, offered a resolution of the following title, viz.:

#### S. RES. 5.

Resolution concerning the rules to govern the Senate in its deliberations for the 1938 Regular Session of the General Assembly.

Said resolution is as follows, viz.:

*Be it Resolved* that the following rules govern in the Senate in its deliberations for 1938 Regular Session, viz.:

§ 1. The Senate shall meet at 10 a. m., except on Monday, when it shall meet at 1 p. m.

§ 2. If the President of the Senate as provided in Section 87 of the Constitution, be called upon to administer the government or resign, die or be absent from the State, the President pro tem. of the Senate shall have all the rights and perform all the duties pertaining to the office of the President of the Senate. The President of the Senate may designate any Senator to preside in the absence of both the President and the President pro tem., until the Senate shall select one of its members to preside during such absence.

When the President and President pro tem. of the Senate shall both be absent from the Senate and no Senator has been designated as above provided, to preside over the Senate, the

Chief Clerk shall call the Senate to order in the same manner as the President of the Senate is required under these rules, and the Senate shall then immediately choose one of its members to preside until the President or President pro tem. shall return or be present in the Senate.

§ 3. If a quorum be not present at the time fixed for a meeting of the Senate, four Senators may adjourn or recess from day to day or from time to time in any day when a quorum is not present and eight Senators may order a call of the Senate and send for absent senators. No senator shall absent himself from a session of the Senate without leave from the Senate.

All pairs announced in the Senate shall be entered on the Journal.

The names of the Senators shall be arranged alphabetically upon the roll call or when taking a yea and nay vote.

Any Senator, with a second, may demand a roll call on any matter pending before the Senate.

§ 4. Upon a call of the Senate the roll shall be called by the Clerk, and the absentees noted. The absentees shall then be called again. The doors of the Senate Chamber shall then be closed and the absentees for whom no sufficient excuse is made, by order of a majority of those present, may be sent for and arrested wherever they may be found by the Sergeant-at-Arms or his assistants, and their attendance secured and retained; and the Senate shall determine upon what conditions they shall be discharged from arrest. Senators who voluntarily appear shall, unless the Senate otherwise direct, be immediately admitted to the floor of the Senate and they shall report their names to the Clerk to be entered upon the Journal as present.

§ 5. No person shall be permitted upon the floor of the Senate when in session except the Governor, his Secretary, the present members of the House of Representatives, and the Clerks thereof, and any member of the family of the Governor and of the Presiding Officer of the Senate, or of any



Senator, or of the Governor's Private Secretary and Personal Page of the Presiding Officer of the Senate\* and such newspaper correspondents as may be authorized by the President of the Senate. Provided that any one person may be extended the privilege of the floor upon invitation previously extended such person by a majority vote of the members of the Senate taken by roll call, but such privilege shall be extended only for a specified day and no other; and provided further that the Presiding Officer shall have the power to limit the number of such motions for such invitations whenever in his judgment the business of the Senate so requires.

Newspaper correspondents admitted to the floor of the Senate under this rule, shall be assigned by the Presiding Officer to a press section specifically set aside by order of the Presiding Officer for the press; and no newspaper correspondent shall leave such section to go upon main floor to confer with any member of the Senate while the Senate is in session.

No person who shall have been extended the privilege of the floor for a specified time, as herein provided, shall engage in any activities for or against any bill, motion or other proceeding upon the floor of the Senate while in session.

No person shall engage in lobbying for or against any measure while the Senate is in session, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the Senate and no registered lobbyist shall enter into any of the rooms assigned to the use of the Senate while the Senate is in session, or remain in the corridors or passages on the third floor of the Capitol assigned to the use of the Senate. Provided, however, this rule shall not be construed to prohibit the use of the corridors or passages in going to and from the Senate galleries by any person.

It shall be the duty of the Sergeant-at-Arms and the Doorkeeper of the Senate to exclude all persons not entitled to the floor of the Senate Chamber. If however other persons find their way to the floor, it shall be the duty of the Sergeant-

at-Arms to remove them. At least five minutes before the hour of convening each day the Sergeant-at-Arms shall clear the floor of the Senate Chamber of all persons not entitled to the floor and he shall make announcement in a loud, distinct voice: "All persons not entitled to the floor of the Senate under the rules thereof will now vacate the Senate Chamber." He shall then compel each and every person then in the Senate Chamber who is not entitled to remain therein to leave the Senate Chamber.

The Sergeant-at-Arms of the Senate, before any joint session is to be held, shall request the Sergeant-at-Arms of the House to arrange for the seating of the members of the Senate in a body. The Senators will assemble in the Senate Chamber five minutes before the meeting of any joint session and go to the House in a body.

§ 6. In the event of any disorder in the gallery or in the Senate Chamber the Presiding Officer shall have power to have same repressed. He may require the Sergeant-at-Arms or other officers or employees of the Senate to clear the gallery or to remove from the gallery or the Senate Chamber any persons creating disturbances or disorder or who may not be entitled to the privileges of the floor of the Senate.

§ 7. All the employees of the Senate, except the assistants to the Clerk, shall each legislative day, half an hour before the meeting of the Senate for that day, report to the Sergeant-at-Arms of the Senate, who shall in turn report to the President of the Senate, whether or not all of said employees are on duty, and the President of the Senate, whenever he deems is necessary, shall report to the Senate any dereliction of duty. The stenographers of the Senate shall perform the services for the Senators and the committees of the Senate and the Sergeant-at-Arms at such place and during such hours as may be fixed by the President of the Senate. No employee of or person elected by the Senate shall receive any fee, tip or compensation from any Senator. Any viola-

tion of this rule shall be ground for dismissal of said employee.

### DUTIES OF THE PRESIDENT

§ 8. The President of the Senate shall take the chair every day precisely at the hour fixed for the meeting of the Senate and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, provided the reading of the same is not dispensed with by the Senate.

He shall preserve decorum and order, and while presiding may speak to points of order in preference to Senators. He shall decide points of order and manner of procedure; but any decision made by him shall be subject to appeal to the Senate. Every such appeal shall be in writing, and signed by at least two Senators.

During the pendency of an appeal to the Senate from a decision of the chair, the President of the Senate or the officer from whose decision the appeal is taken shall vacate the chair and call the President pro tem. to preside during the appeal. If the president pro tem. is absent from the Senate, or is one of the Senators taking appeal, the presiding officer of the Senate may call any other Senator to preside.

It shall be the duty of the President of the Senate to refer all bills to the proper committees on the day on which they are introduced.

The President shall have supervision and control of all employees of the Senate, whether elected by the Senate or appointed by the President or otherwise and the President shall see that they perform all of their duties to the Senate and the members thereof.

§ 9. All writs, warrants, subpoenas or other process shall be signed by the officer who may be presiding over the Senate when such paper is issued; and his signature to said paper shall be attested by the Clerk.

§ 10. Senators shall vote only when at their seats or when in the main part of the Chamber and not from places under the galleries. If the presiding officer be in doubt as to

the result of a viva voce or a division be demanded, the Senate shall divide.

Those voting in the affirmative shall first rise and be counted. After the presiding officer has announced the number of those voting, those voting in the negative shall rise and be counted and the number so voting shall be announced by the presiding officer. He may appoint tellers to count those voting.

§ 11. If any Senator, in speech or otherwise, transgresses the rules of order or decorum or becomes offensive to the chair, or to any Senator, he shall immediately be called to order by the chair either with or without motion or suggestion from a Senator, and he shall immediately take his seat.

The objectionable words shall be reduced to writing by the Clerk, who shall then read them to the Senate. The presiding officer, after hearing a short explanation from the alleged offender or upon the withdrawal of the objectionable language, may permit the one offending to proceed or he may compel continued silence upon the one so offending until the matter under consideration is disposed of. The ruling of the chair, whatever it may be, shall be subject to an appeal to the Senate.

A Senator offending in this respect shall be liable to the censure of the Senate. No Senator shall designate another Senator by name.

§ 12. If two or more Senators arise from their respective seats and address the chair (nearly together) the presiding officer shall determine who was first and recognize him, but no Senator may speak more than once to the same subject until all the Senators desiring to be heard have spoken. Nothing in this rule shall, however, do away with the "previous question" if then in effect. Neither shall it permit debate on an undebatable motion.

No member shall speak more than one hour in the aggregate on any question or measure.



§ 13. No Senator shall vote on any question in the result of which he is personally or privately interested.

### CLERK OF THE SENATE

§ 14. The Clerk shall make all reports to the House of Representatives, unless otherwise ordered.

§ 15. Each day half an hour before the time fixed for the meeting of the Senate, the Clerk or one of his assistants shall be present at the Clerk's desk with the minutes of the preceding session for the inspection of any member of the Senate.

§ 16. All questions of order together with the disposition of same, shall be noted by the Clerk upon the Journal.

The Chief Clerk of the Senate shall on the last day of the session of the General Assembly, file with the Senate an itemized statement of the expenditures made by him.

*Clerk to Have Charge of Clerical Business of the Senate.*—The Clerk shall have charge and supervision of all clerical business of the Senate. He shall perform the duties imposed on him by law and the rules of the Senate. He shall have charge of the Clerk's desk and shall see that no one is permitted therein except himself and those assisting him.

*Duties of Clerk.*—It shall be the Clerk's duty to read to the Senate papers ordered to be read; to call the roll and note and report the absentees, when a call of the Senate is ordered; to call the roll and note the answers of members, when a question is taken by yeas and nays; to assist, under the direction of the Speaker, in taking the count when any vote of the Senate is taken; to notify committees of their appointment and the business referred to them; to superintend the execution of all printing ordered by the Senate and to *report to the President of the Senate*, to be submitted to the Senate, *every failure of the printer to execute the same properly and promptly*. He shall attest all writs, warrants and subpoenas issued by order of the House and shall certify to the passage of all bills, and to the adoption of all joint and concurrent



resolutions by the Legislature. In addition to his other duties the Clerk shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the House, and prepare and sign warrants or requisitions for the same.

The Clerk shall superintend the recording of the Journal of the proceedings, and engrossing and enrolling of bills, and shall cause to be kept and prepared for the printer the Daily Journal of the proceedings of the Senate.

*Clerk to Have Custody of All Records.*—The Clerk shall have the custody of all records and papers of the Senate, and shall not allow them to be taken from the table or out of his possession without the leave of the Senate, unless to be delivered to the chairman of a committee to which they may have been referred and then he shall take a proper receipt therefor. He shall endorse on bills and papers brief notes of proceedings had thereon by the Senate and preserve the same in convenient files for reference.

*Clerk to Have Charge of All Printing.*—The Clerk shall have supervision and charge of all printing done for the Senate and the public printer shall print only such documents and other matter as the Clerk authorizes.

*Printed Bills After the Session.*—When the Clerk has finished his work at the Capitol after the session of the General Assembly, he shall transmit to the State Librarian the unused copies of bills in his possession. Before transmittal he shall upon the face of one printed bill which was not amended stamp the following words, “Became a law without amendment.” Upon the face of printed copies which amended he shall stamp the words, “Became a law with amendments.” Upon other copies he shall stamp the words, “Failed to become a law.”

The Clerk of the Senate shall provide each Senator with a bill holder fitted and arranged to place all printed bills introduced in the Senate.

## ORDER OF BUSINESS

§ 17. The order of business shall be as follows:

Invocation.

Roll call.

Reading and approval of the Journal.

Petitions and communications.

Motions.

Introduction of bills.

Senate resolutions.

Joint resolutions.

Reports of standing committees.

First reading of bills.

Reports of special committees.

Second reading of bills.

Orders of the day.

§ 18. A petition, memorial, or other paper addressed to the Senate or the Legislature may be laid before the Senate by the President or Senator to whom the same was sent for presentation and a brief statement may be made by the one presenting the same.

§ 19. Unfinished business which was being considered upon the last adjournment shall have precedence in that class of business to which it properly belongs upon the next succeeding legislative day.

§ 20. In forming a committee of the whole the President of the Senate shall leave the chair and call the President pro tem. to preside as Chairman. If the President pro tem. is absent from the Senate the presiding officer of the Senate may call any other Senator.

§ 21. Upon a bill being committed to the committee of the whole the same shall be first read through by the Clerk (unless otherwise ordered by a majority) and then again read for amendments by clauses or sections, leaving the preamble, if any, to be last considered. After report the bills shall then again be read, if desired by a majority for amendment or debate.

§ 22. The body of the bill shall not be defaced or interlined; but all amendments, noting the page and line, shall be duly entered by the Clerk on a separate paper and so reported to the Senate, as the same shall have been agreed to, and the same shall be considered in the Senate in the order in which they were adopted in committee; and all amendments made in committee to an original motion shall be incorporated with the motion and so reported, and the above rule shall apply to all other subjects in committee of the whole as well as bills.

§ 23. Nothing shall be introduced or offered in committee of the whole except it relates to the matter under consideration.

### BILLS

§ 24. *Bills to be Presented in Triplicate.*—All bills shall be introduced in triplicate without folding, and signed by the member introducing the same. They shall be typewritten, an original and two distinctly legible copies, the original copy for the permanent files of the Senate, the second for printing and committees, and the third for the use and accommodation of the members of the press, which shall be kept by the Clerk in some convenient place for this purpose. When said bill or resolution proposes to amend any then existing statute or section thereof, the author of said bill or resolution shall indicate the new matter therein by underlining in the original bill and copies introduced; and when said bill is ordered printed, said amendment shall appear in bold face type.

*Companion Bills.*—When a bill is introduced in the Senate containing identically the same text, as a House bill, the Senate shall designate its author in the usual way, followed immediately by the name of the House member introducing the companion bill in the House, which name shall be in parentheses. As soon as possible after the introduction of the respective bills, the Clerk of the Senate shall ascertain the corresponding file number of the companion bill in the House and note the same on the bill.

*Printing of Bills.*—The Clerk shall order printed 300 copies of such companion bill when introduced first in the Senate. The heading shall show each author and the number of the bill in each house. One-third of the bills thus printed shall be for the use of the Senate and two-thirds for the use of the House.

The State Printer shall immediately after receipt of the copy of any Senate bill or resolution print, in addition to the regular number herein authorized, *one copy thereof upon buff paper* on one side of the paper only which copy shall be delivered to the Clerk of the Senate. The Clerk and the Senator introducing the bill shall carefully compare the printed copy of said bill with the triplicate copy thereof and, if said printed copy is found to be in all respects correct, it shall be so certified on the cover, and said Clerk shall cause the copy of said bill printed upon buff paper to be securely bound with a substantial cover on which the history of said bill shall be endorsed; whereupon said bound copy, printed upon buff paper so compared and certified to, shall be substituted for the original copy introduced and thereafter be deemed the official copy of said bill or resolution.

§ 25. Every joint or concurrent resolution in which the concurrence of the House of Representatives is necessary shall be read to the Senate and laid upon the table at least one full legislative day preceding that on which the same may be considered.

§ 26. Resolutions having the force and effect of laws shall be, in all respects, treated and considered as bills shall be treated under these rules.

§ 27. Bills originating in the Senate shall be introduced in open session and each shall be read by its title. The bill shall then be referred to a committee and be printed for the use of the members. If a bill be reported unfavorably, or without expression of opinion, a vote may then be taken whether it shall be read at length and be placed on the calendar. Provided, however, that shall not be done unless a

majority of the members elected to the Senate shall concur therein. When reported favorably by the committee the bill shall then be given its first reading at length and shall be placed by the Clerk upon the calendar to be kept by him, and so remain on the calendar till the next succeeding legislative day. Said bill shall then be entitled to its second reading.

The Clerk shall keep a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, the same may be called up by any member and be considered as if it had been regularly reported.

Provided, however, that no bill may be called from any committee without the concurrence of a majority of members elected to the Senate.

Every bill shall be read at length on three different legislative days; but the second and third reading thereof at length may be dispensed with at the instance of a majority of all the members elected to the Senate and the bill may then be read by its title. No bill shall become a law unless on its final passage it receives votes of at least two-fifths of the members elected to the Senate and a majority of the members elected to the Senate voting taken by yeas and nays entered on the Journal; provided any act or resolution for the appropriation of money or the creation of a debt shall, on its final passage, receive the votes of a majority of all the members elected to the Senate, and provided further that any bill wherein it is declared that an emergency exists shall require the concurrence of a majority of the members elected to the Senate by an yea and nay vote entered upon the Journal.

Bills shall be printed and distributed in the order in which they are introduced, and the Committee on printing shall have charge and supervision of same.

§ 28. The Clerk of the Senate shall keep a record showing to what committee each bill or resolution has been referred, the date of such reference, together with the date of



its return to the Senate. The records shall also show the date when the committee first received the bill and when the same was finally reported by the committee to the Senate.

The report or recommendation of the committee which considered the bill, together with a minority report if one be made, shall also be entered upon said record under one of the following expressions:

“Favorably Reported”,

“Favorably Reported, accompanied by a minority report”,

“Unfavorably Reported”,

“Unfavorably Reported, accompanied by a minority report”,

“Without Expression of Opinion”.

Upon the call of standing committees by the Clerk, the Chairman or ranking member thereof shall disclose the disposition of the matter or matters submitted to their respective committees in the following manner:

“Mr. President, the Committee on.....(naming the committee) to which was submitted (Senate or House bill or resolution, naming the same and giving the number thereof) reports as follows:

“Unfavorably Reported”,

“Favorably Reported”,

“Favorably Reported, accompanied by a minority report”

“Unfavorably Reported, accompanied by a minority report”,

“Without Expression of Opinion”.

A minority report must be signed by those members who have dissented from the committee's report and it shall be in order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. However it shall require a majority of the members elected to adopt same; but it shall always be required

that the committee's report be read before the minority report is read.

§ 29. The Senate Journal shall also note the dates upon which all bills and resolutions were sent to their respective committees as well as the dates upon which same were returned to the Senate.

§ 30. The Clerk of the Senate shall keep a calendar for each Legislative day of the session showing the bills entitled to a second reading upon that day distinguishing between House bills and Senate bills.

§ 31. When a Senate Bill has been amended in the House and the Senate has concurred in the House amendment, the bill as amended shall immediately be put upon its passage.

When a Senate bill has been amended in the House and the Senate refuses to concur in said amendment, and when a House bill has been amended by the Senate and the House shall refuse to concur in said amendment and when neither will recede from said amendments, a Conference Committee shall be appointed by the Presiding Officer of the Senate to meet with a like committee from the House and said Committee shall confer with the House Committee and report back to the Senate within a reasonable time.

When a bill has been referred to the Committee on Conference and a report has been made thereon in the same manner as reports are made for Senate bills, the Conference report shall be voted upon; and, if adopted, the bill shall immediately be put upon its final passage.

EVERY BILL SHALL BE PUT UPON ITS FINAL PASSAGE IMMEDIATELY AFTER ITS THIRD READING UNLESS OTHERWISE ORDERED BY THE SENATE.

§ 32. Every Senate Bill and joint resolution together with the amendments thereof passed by the Senate and being the subject of no further amendment or motion shall be engrossed by the Clerk of the Senate and delivered to the House of Representatives in open session by the Clerk of the Senate, or by some one designated by the President.

§ 33. When a bill has had its second reading it shall be placed in the Orders of the Day or be recommitted and when next reached in the Senate it shall be ready for recommitment, amendment or debate, or to be read a third time and placed upon its passage, and the presiding officer shall so announce to the Senate. A bill may be recommitted or amended at any time before its passage.

§ 34. When a bill shall have passed the Senate and shall have been properly engrossed, and shall no longer be the subject of further amendment or motion it shall be so certified by the Clerk of the Senate endorsing thereon the day of passage or adoption, and taken by him and delivered to the House of Representatives in open session, and its concurrence asked therein.

And a like procedure shall be observed toward amendments put by the Senate upon a House bill; but there shall intervene at least one Legislative day between the day of passage of any bill or the concurrence in any amendments and its delivery to the House. Provided, however, that this rule shall not apply to the last fifteen legislative days of the session.

§ 35. When a Senate bill has been amended in the House and has been returned to the Senate for concurrence in the amendment it may be referred to a committee, but if referred, shall be done in the same manner as original bills are referred.

§ 36. BILLS AFTER THEIR SECOND READING SHALL BE PLACED IN THE ORDERS OF THE DAY IN THE ORDER IN WHICH THEY HAVE BEEN GIVEN THEIR SECOND READING, and shall be taken therefrom for their third reading and final consideration in the order in which they appear in the Orders of the Day, unless otherwise ordered by a majority of the Senators elected.

§ 37. When a Senate bill is in the Orders of the Day, it may be in order on motion of the author to substitute an identical House bill which has been properly certified to the Senate by the House.

When engrossing a bill the Clerk may incorporate amendments by means of typing only. When an amendment strikes out any part of the original it shall be indicated in the engrossed copy by one parallel line over the part to be stricken out, in such a way as not to render illegible the original words.

All amendments shall give the proper page and line of the printed bill.

When a Senate bill is in the Orders of the Day, it may be in order on motion of the author to substitute an identical House bill which has been properly certified to the Senate by the House.

The Clerk shall post conspicuously the number of all bills recommended for said calendar by the Rules Committee and the number of all bills placed in said calendar by the Committee of the whole Senate.

*Amendments—Forms For.*—The Clerk shall furnish to members sheets with a proper heading printed in blank upon which amendments shall be written, and all amendments offered shall be on such blanks and bear the name of the member offering the same.

*Must be Germane.*—No amendment shall be in order that is not germane to the matter under consideration; and the President of the Senate, when the question is raised, shall rule as to the admissibility of the proposed amendment.

*By Striking Out Enacting Clause.*—A motion to amend by striking out the enacting clause of a bill shall have precedence over another motion to amend, and, if carried, the bill or resolution is rejected.

§ 38. Bills originating in and passed by the House of Representatives, when reported to the Senate, shall be referred to a committee by the President and shall take the same course as other bills.

§ 39. All Senate bills and resolutions which have passed both Houses, the Senate and the House of Representatives, shall be delivered by the Senate Clerk to the Enrolling Clerk, in the order in which passed, who shall be responsible for

their safekeeping until they are delivered to the Committee on Enrollments.

The Enrolling Clerk shall immediately upon receipt of said bills or resolutions, plainly and legibly enroll the same, using good paper, pen and ink, free from blots, interlineations or erasures. So soon as said enrollment is completed the Enrolling Clerk shall deliver the original bill or resolutions and the enrolled copy thereof to the Committee on Enrollments. The Enrolling Clerk and said committee shall jointly compare one with the other, and if the enrollment is ascertained to be correctly done the committee shall report the same to the Senate to be again read and compared in open session.

Immediately after said last named reading and comparison the original paper and the enrolled bill shall be returned to the Clerk of the Senate, who shall thereafter be responsible for the safekeeping thereof. As soon as the enrolled bill or resolution has been signed by the presiding officers by both the Senate and the House of Representatives, the Clerk of the Senate shall present the enrolled paper to the Governor for his approval and take his receipt for same.

If any bill or resolution is found not correctly enrolled it shall be returned to the Enrolling Clerk to be properly enrolled, which, when done, shall be delivered to the Committee on Enrollments as is first provided herein.

The Enrolling Clerk shall receive no compensation other than the per diem allowed by law.

§ 40. The Committee on Enrollments may report at any time except during roll call or while a vote is being taken.

§ 41. No bill shall be copied or distributed by the public printer or any employee of the Senate or other person whose duty it is to have custody of the same until the same shall have been printed and returned with the printed copies thereof to the Clerk of the Senate, and all bills shall remain at all times in the hands of the Clerk of the Senate, Public Printer or the Committees to which said bills have been referred. It shall



be the duty of the Committee on Public Printing to see that the provisions of this rule are rigidly enforced.

§ 42. No record which is in the hands of the Clerk of the Senate and is required by law to be entered upon the Journal of the Senate, shall be copied by the Clerk or any other person for any person or persons whatsoever until same shall have been entered upon the aforesaid Journal and said Journal shall have been approved. The Committee on Public Printing shall rigidly enforce this rule.

§ 43. No bill shall be considered by the Senate during the last fifteen legislative days of the session of the Senate or during any special session except upon the recommendation or report of the Rules Committee previously obtained, nor shall the Senate consider any bill originating in the House of Representatives during the last fifteen legislative days of the session of that body nor during any special session, except upon the recommendation or report of the Rules Committee of the Senate previously obtained, unless otherwise ordered by a majority of the members elected to the Senate.

The Rules Committee of the Senate will take charge of and control all bills to be considered by the Senate during the last fifteen legislative days of the session of the Senate and during any special session and will determine what bills shall be considered during that time, and the order in which they shall be taken up and considered.

If and when the time be fixed for the sine die adjournment of the session of the General Assembly, the "last fifteen legislative days" as hereinabove provided shall be held and construed to mean the last fifteen legislative days next prior to the time so fixed for the sine die adjournment. If the resolution be adopted for sine die adjournment within fifteen days of the time fixed for such adjournment, then the Rules Committee shall take charge for such lesser number of days as may remain from the time such resolution for sine die adjournment is adopted and the time fixed for such adjournment.

The Floor Leader of the Senate shall act for the Rules Committee in calling from committee any bills or resolutions, and shall be recognized by the President of the Senate for said purposes during all times that the Rules Committee is in charge.

The President of the Senate shall be ex-officio chairman of the Rules Committee, and, in his absence, the President Pro Tempore of the Senate shall act as chairman of the Rules Committee.

§ 44. There shall be printed 100 copies of each bill and joint resolution introduced.

### PARLIAMENTARY RULES

§ 45. In the absence of a specific rule of the Senate, General Parliamentary Law shall govern the proceedings thereof.

§ 46. No Committee except the Committee on Enrollment and a Committee of Conference between the House and Senate shall sit while the Senate is sitting unless by consent of the Senate.

§ 47. The Senate may correct errors in the Journal on the day the Journal containing errors is presented to the Senate for approval.

§ 48. Every oral motion after it has been stated by the presiding officer, and every written motion, bill, resolution or other paper, after it has been read by the Clerk shall be the property and in possession of the Senate; and shall not be withdrawn without consent of the Senate.

§ 49. When a question is under consideration, no motion shall be in order except:

*First*—To fix the time to which the Senate shall adjourn.

*Second*—To adjourn.

*Third*—To take recess.

*Fourth*—To lay on the table.

*Fifth*—For the previous question.

*Sixth*—To postpone to a fixed time.

*Seventh*—To commit.

*Eighth*—To amend.

*Ninth*—To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged; and the first five of them shall not be debatable. A second motion to adjourn to take a recess, to lay on the table, for the previous question, to postpone to a time certain, to commit or to postpone indefinitely, shall not be in order on the same day, upon the same question, and at the same status thereof; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone.

§ 50. A motion to strike out the enacting words of a bill or resolution shall have precedence of a motion to amend; and if adopted shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

§ 51. A motion to adjourn, to take a recess or a motion to adjourn to a time certain shall always be in order, except when a member is speaking or while a vote is being taken; subject, however, to the limitation set out in Rule 49.

§ 52. When the “previous question” has been ordered a vote shall be immediately taken upon the pending measure and such pending amendments as are in order.

The effect of the “previous question” shall be to put an end to all debate; to prevent the offering of additional amendments, and to bring the Senate to an immediate vote upon the measure and amendments aforesaid.

The previous question may be ordered by a majority of the Senators voting on that question. On the call of the roll no Senator shall be allowed to speak more than three minutes to explain his vote and shall not speak at all if the question is not a debatable question. After the previous question has been ordered a Senator whose bill or amendment or motion (if debatable) is pending may speak not exceeding ten minutes.

§ 53. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

§ 54. Every written motion, report or measure may be committed or recommitted at the pleasure of the Senate.

§ 55. A motion to commit, recommit, or postpone a part of the measure so as to separate that part of the measure from the remainder, shall not be in order.

§ 56. A motion to reconsider a vote shall not be in order unless made by a Senator who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two Legislative days next after the day the vote was taken.

However, the motion to reconsider when coupled with the additional motion to lay that motion upon the table, may be made by any Senator.

§ 57. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any Senator, but shall not again be read on the same day unless so ordered by the Senate.

§ 58. The Rules of the Senate, after their adoption, shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the Senate.

Whenever the Rules are suspended,

§ 59. All questions, whether in Committee of the Whole or in the Senate (WHEN NOT A PRIVILEGED QUESTION) shall be propounded in the order in which they were moved except that in filling blanks, the smallest sum and the most remote date shall be put first.

§ 60. The Rules of Procedure in the Senate shall be observed in Committee, so far as the same are applicable.

§ 61. When the roll is being called in taking a yea and nay vote and the hour of adjournment arrives the same shall stand extended until after said yea and nay vote has been completed, and the announcement of the result made.

§ 62. In all elections a previous nomination shall be made.

§ 63. When a motion has been made and a seconded it shall be stated by the Chair; or being in writing, shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

§ 64. In all cases where general parliamentary law provides for a rule of two-thirds it shall mean in this Senate a majority of all the members elected thereto.

§ 65. One hundred copies of these rules shall be immediately printed for use of the General Assembly.

§ 66. The following shall be the Standing Committees of the Senate; and the members of said committees shall be appointed by the President of the Senate.

#### SENATE COMMITTEES SESSION 1938

Agriculture and State Fair.

Appropriations.

Banks and Trust Companies.

Charitable, Penal and Reformatory Institutions.

Child Welfare and Social Work.

Classification of Cities and Towns.

Common Carriers and Commerce.

Compensation for Industrial Injuries.

Constitutional Amendments.

Courts and Legal Procedure.

Criminal Law.

Drains and Ditches.

Education.

Enrollment.

Executive Affairs and Federal Relations.

Fish and Game.

Forestry and State Parks.

Geological Survey.

Insurance.

Judicial Council.

Judiciary.

Kentucky Statutes No. 1.



Kentucky Statutes No. 2.  
Kentucky Universities and Teachers' Colleges.  
Labor and Manufacturing.  
Library and Historical Records.  
Military Affairs.  
Mines and Mining.  
Motor Vehicles and Transportation.  
Municipalities.  
National Parks.  
Printing.  
Public Health.  
Public Utilities.  
Reapportionment.  
Regulation of Intoxicating Liquor.  
Revenue and Taxation.  
Roads and Highways.  
Rules.  
Suffrage and Elections.  
Trade and Commerce.  
Veterans' Legislation.

Senator Gilbert moved that the Senate do now recess for thirty minutes.

Said motion was agreed to.

And then the Senate recessed.

The appointed hour having arrived, the President of the Senate resumed the chair and called the Senate to order.

Without objection a leave of absence was granted to Senator William H. Jones, Jr., for one day.

Senator Gilbert moved that the Senate do now recess for ten minutes.

Said motion was agreed to.

And then the Senate recessed.

The appointed hour having arrived, the President of the Senate resumed the chair and called the Senate to order.

Senator Rogers moved that the rules be suspended for the purpose of introducing a bill.

Said motion was agreed to by a majority of the members elected.

Whereupon, a bill of the following title was introduced, ordered printed and referred, as follows, viz.:

By Senator Rogers.

S. B. 3. An Act to amend Section 2554c-1 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision:

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 2554c-1 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be amended by striking from subsection (b) of said section the words "one per centum or more of alcohol by volume", and substituting therefor "more than 3.2 per centum of alcohol by weight", so that said section when so amended shall read as follows:

Sec. 2554c-1. As used in this Act, the following terms, unless the text otherwise indicates, shall have the following meanings respectively:

(a) "Local option territory" or "territory" means such county, city, town, district or precinct for which a petition shall be filed asking for an election to take the sense of

the voters regarding the sale, barter and loan of intoxicating liquors as provided, and such governmental unit where a majority shall have voted in favor of prohibiting the sale, barter or loan of said liquors or the possession or transportation thereof.

(b) "Spirituous, vinous or malt liquors" means, respectively, intoxicating liquor. "Intoxicating liquor" means alcoholic brandy, whiskey, rum, gin, beer, ale, porter and wine and in addition thereto any spirituuous vinous, malt, or fermented liquors, liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called containing more than 3.2 per centum of alcohol by weight which are fit for use for beverage purposes.

(c) The word "person" includes the singular and plural number, and shall mean and include a natural person, association, co-partnership or corporation.

(d) "Election" means an election to be held for the purpose of taking the sense of the people as to the prohibition or permission of the sale, barter or loan of spirituuous, vinous or malt liquors in any territory.

(e) "Prohibition" means that the sale, barter or loan of intoxicating liquors have been rendered unlawful under the terms of this Act.

(f) "Local Option Law" refers to the provisions of this Act.

To Committee on Intoxicating Liquors.

Without objection a leave of absence was granted to Senator Wise for one day.

Senator Gilbert moved that the Senate do now adjourn to meet again at ten o'clock A. M., Thursday, January 6, 1938.

Said motion was agreed to.

And then the Senate adjourned.

## THURSDAY, JANUARY 6, 1938

The Senate convened and was called to order by the President of the Senate, the Honorable Keen Johnson, Lieutenant Governor.

The Senate was opened with prayer by the Reverend R. B. Kelly, pastor of the Church of the Nazarene, Frankfort, Kentucky.

The roll of the Senate was called and the following Senators answered to their names, viz.:

Wm. R. Attkisson	Lee Gibson	Ira W. See
Aubrey Barbour	Ralph Gilbert	Paul L. Sidebottom
Paul M. Basham	John M. Hall	John A. Sugg, Jr.
H. Stanley Blake	J. Joseph Hettinger	J. E. Trager
Ollie J. Bowen	H. Watt Hillman	Ervine Turner
Leer Buckley	Leo King	E. T. Wesley
Dr. D. H. Bush	Stanley B. Mayer	Otis White
Waller A. Crockett	E. C. Moore	O. C. Whitfield
Edwin C. Dawson	J. Lee Moore	B. M. Williams
W. C. Farmer	James C. Rogers	J. M. Wolfinbarger

Senator Sugg moved that leaves of absence be granted to all absent members.

Said motion was agreed to.

Senator Dawson moved that the reading of the Journal of the proceedings of Wednesday, January 5th, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.

## INTRODUCTION OF BILLS

Bills of the following titles were introduced, referred and ordered printed, as follows, viz.:

By Senator White.

S. B. 4. An Act to amend Section 1142a, Kentucky Statutes, relating to credit for imprisonment during inability to secure bail.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 1142a, Kentucky Statutes, be amended and when so amended shall read as follows:

1142a. Credit for imprisonment during inability to secure bail. That in all trials in Circuit Court, Quarterly, Justice, or Police Courts of the Commonwealth, in cases where the defendant has been compelled to remain in jail, by reason of his inability to execute bond, to answer the charge of the court in which he is held and where on trial had in such court, he has been found guilty and his punishment fixed for a term of confinement in the county jail, he shall be given credit on such terms for the time he has been confined in the county jail after his arrest and an entry shall be made by the Clerk or Judge of the Court on the Commitment and such defendant shall be discharged from the county jail when has served the full term for which he was convicted, or has paid or replevied same, less credit of time as he is to receive as herein provided.

To Committee on Criminal Law.

By Senator White.

S. B. 5. An Act to amend Section 1309, Carroll's Kentucky Statutes, 1936 Edition, providing a penalty for carrying concealed, deadly weapons or selling to minors, and providing for confiscating of weapons.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 1309, Kentucky Statutes, be amended and



re-enacted and when so amended and re-enacted shall read as follows:

That if any person shall carry a concealed deadly weapon upon or about his person, other than an ordinary pocket knife, or shall sell such weapon to a minor other than an ordinary pocket knife, such person shall, upon conviction, be fined not less than fifty nor more than one hundred dollars and imprisoned in the county jail for not less than ten nor more than forty days, in the discretion of the court trying the case. If, upon the expiration of the time in which the judgment of conviction could be superseded, no supersedeas bond has been executed, it shall be the duty of the clerk of the court rendering the judgment to at once issue and cause to be placed in the hands of the proper officer for execution a *capias pro fine*, and it shall be the duty of said officer to execute at once said writ. It shall be a misdemeanor for the clerk of the court rendering said judgment or for the officer in whose hands said *capias pro fine* shall come for execution, to fail or refuse to perform the duties herein prescribed, and upon conviction he shall be fined not less than ten nor more than fifty dollars (\$50.00).

Provided, that any person convicted for carrying concealed deadly weapons shall forfeit said weapon to the Commonwealth of Kentucky and the court in which said conviction was had shall direct the sheriff of said county to sell said property. Before making said sales he shall advertise same as in sales under execution.

The sheriff for making said sales shall receive the same fees as allowed for sales under execution.

The sheriff, after payments of costs and fees, shall pay the balance of proceeds of sale to the trustee of the jury fund, who shall report same as in all other fines and forfeitures.

The offense of carrying concealed deadly weapons denounced in this statute is hereby declared a high misdemeanor, and any person convicted under this statute of the offense of carrying concealed upon or about his person a deadly weapon shall be disfranchised and such conviction

shall operate to exclude such person from the right of suffrage for the period of two years from the date thereof. Any person convicted a second time under this statute shall be confined in the penitentiary for a period of not less than one nor more than five years.

To Committee on Kentucky Statutes No. 2.

By Senator King.

S. B. 6. An Act providing for the regulation of the manufacture of and traffic in alcoholic beverages; requiring licenses therefor and fixing the amounts of license fees; creating Kentucky State Alcoholic Beverage Control Board, with appropriate powers for the enforcement of this Act; fixing the compensation of members of said Board and employees to be appointed by it; authorizing the issuance, revocation and suspension of licenses; imposing prohibitions, restrictions and regulations and fixing penalties for violations of this Act; empowering counties and cities of the first, second and third classes, to have local alcoholic beverage administrators with appropriate powers to adopt and enforce restrictions and regulations of the alcoholic beverage traffic in such city or county, in conformity with this Act; to issue local licenses and fix the fees therefor, to revoke same, and to impose local regulations and penalties, not inconsistent with this Act; transferring the functions and resources of the Division of Alcoholic Control in the Department of Business Regulation to the Department of Revenue; repealing certain sections of Carroll's Kentucky Statutes, 1936 Edition, and all inconsistent laws; and declaring an emergency to exist.

Said bill is as follows, viz.:

## TITLE I

### SHORT TITLE; DEFINITIONS

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. *Short Title.* This Act shall be known and may be

cited and referred to as the "Alcoholic Beverage Control Law".

§ 2. *Definitions.* Whenever used in this Act, unless the context requires otherwise:

(1) "Alcohol" means and includes ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process produced.

(2) "Alcoholic Beverage" or "Beverage" means and includes alcoholic spirits, liquor, rum, wine, beer and every liquid or solid, patented or not, containing alcohol in an amount in excess of that now permitted or that may hereafter be permitted under Chapter I of the Acts of the General Assembly of 1936, known as the Local Option Law, or any amendment thereof, and capable of being consumed by a human being and every spurious or imitation liquor sold as, or under any name commonly used for alcoholic beverages, whether containing any alcohol or not. Provided that there is excepted from this definition of alcoholic beverages the following products if they are unfit for use for beverage purposes: (a) medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, national formulary or the American Institute of Homeopathy; (b) patented, patent and proprietary medicines; (c) toilet, medicinal and antiseptic preparations and solutions; and (d) flavoring extracts and syrups.

(3) "Beer" or "Malt Beverage" means and includes any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute therefore, and having an alcoholic content greater than that now permitted or that may hereafter be permitted under Chapter I of the Acts of the General Assembly of 1936, known as the Local Option Law, or any amendment thereof.

(4) "Board" or "State Board" or similar abbreviation used herein means the Kentucky State Alcoholic Beverage Control Board created by this Act.

(5) "Bottle" means and includes any container, irrespective of the material from which it is made, for use in the sale of alcoholic beverages at retail.

(6) "Bottling" means the placing of alcoholic beverages in any retail container irrespective of the material from which said container is made.

(7) "Brewer" means and includes any person who owns, occupies, carries on, works or conducts any brewery, either by himself or by his agent.

(8) "Brewery" means and includes any place or premises where beer is manufactured for sale; and all offices, granaries, mash rooms, cooling rooms, vaults, yards and storerooms connected therewith, or where any part of the process of the manufacture of beer is carried on, or where any apparatus connected with such manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept, shall be deemed to be included in and to form a part of the brewery to which they are attached or are appurtenant.

(9) "Building containing licensed premises" means and includes the licensed premises themselves and also any part of any building in which such premises are contained, any part of any other building connected with such building by direct access or by a common entrance.

(10) "Commissioner" means the Commissioner of Revenue of the Commonwealth of Kentucky.

(11) "Convicted" and "Conviction" mean and include a finding of guilt resulting from a plea of guilty, or the decision of a court or magistrate, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension thereof.

(12) "Department" means the Department of Revenue of the Commonwealth of Kentucky.

(13) "Distiller" means and includes any person engaged in the business of manufacturing distilled spirits at any distillery in the Commonwealth of Kentucky, duly regis-

tered in the office of the Collector of Internal Revenue for the United States at Louisville, Kentucky, and includes likewise any person other than a distiller engaged in the business of operating a United States Government Bonded Warehouse in the Commonwealth of Kentucky for the storage of distilled spirits produced at any distillery duly registered in the office of any Collector of Internal Revenue for the United States

(14) “Distillery” means and includes any place or premises duly registered in the office of any Collector of Internal Revenue for the United States where distilled spirits are manufactured for sale, and includes any United States Government Bonded Warehouse.

(15) “ ‘ D i s t r i b u t o r ’ ” means and includes anyone, whether distributor, jobber, broker, agent or other person, whether enumerated in the Act or not, who distributes malt beverages for the purpose of being sold at retail.

(16) “Field Representative” means and includes all employees or agents of the Department of Revenue who are regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers and all employees or agents of said Department who may be assigned, temporarily or permanently, by the Commissioner to duty outside of the main office of the Department at Frankfort, in connection with the administration of this Act.

(17) “License” means and includes any license issued pursuant to this Act.

(18) “Licensee” means and includes any person to whom a license has been issued pursuant to this Act.

(19) “Liquor” means and includes all alcoholic beverages.

(20) “Manufacture” means and includes distilling, rectifying, brewing, bottling, and operating a winery.

(21) “Manufacturer” means and includes a vintner, distiller, rectifier, or brewer and any other person, whether



included in the aforesaid categories or not, engaged in the production and/or bottling of alcoholic beverages.

(22) "Person" means and includes individual, partnership, joint stock company, business, trust, association, corporation or other form of business enterprise, including a receiver, trustee or liquidating agent.

(23) "Premises" or "Licensed Premises" means and includes the land and building or buildings in and upon which any business regulated under this Act is operated or carried on. This shall not be construed, however, to include as a single unit two separate businesses or enterprises of one owner on the same lot or tract of land, in the same or in different buildings.

(24) "Rectifier" means and includes any person who rectifies, purifies or refines distilled spirits or wines by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying or refining distilled spirits, by mixing such spirits, wines or liquors with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wines, spirits, cordials, bitters or any other name.

(25) "Retail sale" or "Sale at retail" means and includes any sale where delivery is made in Kentucky to any person not holding a license under this Act.

(26) "Retailer" means and includes any person who sells at retail any beverage for the sale of which a license is required under the provisions of this Act.

(27) "Sale" means and includes any transfer, exchange or barter, in any manner or by any persons whatsoever for consideration, and means and includes all sales made by any person, whether principal, proprietor, agent, servant or employee, of any alcoholic beverage. To sell includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell, and includes the delivery of any alcoholic beverage in this Commonwealth.

(28) "Spirits" or "Distilled Spirits" means and

includes any product capable of being consumed by a human being which contains alcohol in excess of the amount now permitted or that may hereafter be permitted by Chapter I of the Acts of the General Assembly of 1936, known as the Local Option Law, or any amendment thereof, obtained by distilling, mixed with water or other substances in solution, except wine as herein defined.

(29) "Vintner" means and includes any person who owns, occupies, carries on, works, conducts or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

(30) "Warehouse" means and includes any place in which alcoholic beverages are housed or stored.

(31) "Wholesale sale" or "Sale at wholesale" means and includes a sale to any person for the purpose of resale.

(32) "Wholesaler" means and includes any person who sells at wholesale any beverage for the sale of which a license is required under the provision of this Act, except a distiller, rectifier, brewer, or vintner.

(33) "Wine" means and includes the product of the normal alcoholic fermentation of the juices of fruits, with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed 24 per cent by volume.

(34) "Winery" means and includes any place or premises wherein wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded, and also includes a winery for the manufacture of wine in any other state or country than Kentucky which has and maintains a branch factory, office or storeroom within this Commonwealth and receives wine within this Commonwealth consigned to a United States Government bonded winery, warehouse or storeroom located within this Commonwealth.

(35) Wherever the context permits it, the masculine

gender includes the feminine and neuter, the singular number includes the plural and any tense of a verb includes every other tense.

(36) All other words used in this Act shall be defined according to the Statutes in such cases made and provided, if any, and otherwise shall be defined according to the custom and usage of the people of Kentucky.

## TITLE II ADMINISTRATION

### ARTICLE I

#### DIVISION OF ALCOHOLIC CONTROL

§ 3. *Functions.* The administration of this Act and the regulation of the traffic in alcoholic beverages in this Commonwealth is hereby vested in the Department of Revenue.

§ 4. *Organization.*

(a) The administration of this Act in relation to traffic in distilled spirits and wine shall be in charge of a distilled spirits unit, under the supervision of the Commissioner of Revenue.

(b) The administration of this Act in relation to traffic in malt beverages shall be in charge of a malt beverage unit, under the supervision of the Commissioner of Revenue.

§ 5. *Administrators: Salaries.* The distilled spirits unit and the malt beverage unit shall each be headed by an Administrator appointed by the Commissioner of Revenue. The salaries of said Administrators shall be fixed by the Commissioner of Revenue in accordance with Section 4618-154 (Reorganization Bill) of Carroll's Kentucky Statutes, 1936 edition, and they shall be exempt from the test provided for in Section 4618-90 (Reorganization Bill) of Carroll's Kentucky Statutes, 1936 edition.

§ 6. *Powers and Duties of Administrators.* The Administrators, subject to the supervision and control of the Commissioner, shall exercise severally any of the functions,

powers and duties conferred upon the Department by law, which the Commissioner may delegate to them. The Administrator of the distilled spirits unit shall have authority to issue or refuse to issue any license provided for in this Act authorizing traffic in distilled spirits and wine; and the Administrator of the malt beverage unit shall have authority to issue or refuse to issue any license provided for in this Act authorizing traffic in malt beverages.

§ 7. *Alcoholic Beverage Control Board; Creation; Functions; Limitations.* The Kentucky Tax Commission shall constitute the Alcoholic Beverage Control Board, which shall have the following functions, powers and duties:

(1) To adopt reasonable regulations governing the conduct of its own business and the procedure relative to applications for and revocations of licenses and relative to all other matters over which the Board is given jurisdiction by this Act, and for the supervision and control of the manufacture, sale, transportation, storage, advertising, and trafficking of alcoholic beverages throughout the Commonwealth. Such rules and regulations need not be uniform in their application, but may vary in accordance with reasonable classifications.

(2) To limit in its sound discretion the number of licenses of each kind or class to be issued in this Commonwealth or within any political subdivision thereof, and to restrict the locations of licensed premises. To this end the Board may divide and subdivide this Commonwealth or any political subdivision thereof into sections or districts, provided the classification be reasonable, and the rules and regulations relating to the granting, refusal and revocation of licenses may be different within the several divisions or subdivisions so created.

(3) To hold hearings, subpoena witnesses, compel their attendance, administer oaths, examine any person under oath, and in connection therewith require the production of any books or papers relative to the inquiry, regardless of whether



said witnesses are licensees. The power provided in this subsection may be delegated by the Board to any member or employee of the Department. The provisions of the Civil Code of Practice, shall, where applicable, apply to subpoenas issued pursuant to this subsection, but such subpoena shall be effective throughout the Commonwealth, and shall be enforceable by petition to a court of competent jurisdiction. The Department is hereby authorized to pay witnesses the per diems and mileage provided in section 1734 of Carroll's Kentucky Statutes, 1936 edition, for witnesses in Circuit Courts.

(4) To conduct hearings and appeals under the provisions of sections 14, 15, 42 and 44 of this Act and render decisions upon the subjects of the hearings and appeals.

(5) To suspend, revoke or cancel for cause, and after a hearing, any license issued under this Act; and,

(6) To close, lock and bar, for a period not to extend beyond June 30, next following, any buildings or premises in or upon which a violation of this Act has taken place. If the violation was within the knowledge of the owner, or was committed or permitted in or upon property owned by a licensee under this Act, the Board shall prohibit the issuance of a license for the building or premises until the expiration of two years from the time the offense was committed.

(7) To suspend a license for any cause for which the Board is authorized to exercise its discretion as to revoking a license.

§ 8. *Employees of Department.* The Commissioner, subject to the provisions of Section 4618-90 (Reorganization Bill) of Carroll's Kentucky Statutes, 1936 edition, may appoint and remove such employees and assistants as may be necessary, and shall fix their compensation within the budget appropriation therefor.

§ 9. *Powers of Members, Officers and Employees.* The Administrators and all Field Representatives shall have full police powers such as are now vested in sheriffs and other peace officers, provided the jurisdiction of said Administra-



tors and Field Representatives shall be co-extensive with the boundaries of the Commonwealth. They shall have authority to inspect or examine any premises where alcoholic beverages are manufactured, sold, stored or otherwise trafficked in, without first having obtained a search warrant; and shall have authority to confiscate any contraband property.

§ 10. *Disqualifications of Members and Employees of Department; Penalties.* No member of the State Alcoholic Beverage Board, no State Alcoholic Beverage Administrator, or secretary thereto, and no Field Representative of the Department authorized to assist in the administration of this Act, shall have any interest either proprietary, or by means of any loan, mortgage or lien, or in any other manner in or on any premises or business where alcoholic beverages are manufactured, stored or sold. Nor shall he receive any commission or profit whatsoever, direct or indirect, from any person applying for or receiving any license or permit provided for in this Act; provided, however, that no person shall be disqualified under this section solely by reason of any interest arising out of his membership in a club as defined in this Act. If any person, after an opportunity to be heard by the Commissioner, shall be found to have violated any of the provisions of this section, his office or position shall thereupon automatically become vacant, and upon conviction by a court of competent jurisdiction he shall be deemed guilty of a felony and punished by a fine not to exceed five thousand dollars or by imprisonment for a term not to exceed two years, or by both such fine and imprisonment; and if a member of the Kentucky Tax Commission shall be disqualified or shall fail to give the bond and take the oath required by this Act, the Governor shall fill the vacancy by appointment for the period during which said member of the Kentucky Tax Commission remains disqualified, or fails to qualify.

§ 11. *Oath of Office and Bond.* Each member of the Board, before entering upon his duties, shall take the oath prescribed in section 228 of the Constitution, and shall execute

a bond with a good and solvent corporate surety in the penal sum of \$5,000 faithfully to perform the duties of his office, pursuant to the provisions of sections 3751 et sequitur of the Kentucky Statutes. The Board may require any of its employees to execute a similar bond in such penal sum as it may deem necessary, conditioned upon the proper and faithful performance of their duties and the satisfactory accounting of all monies received or disbursed by such employees. The cost of such bonds shall be borne by the Department.

§ 12. *Salaries of Board Members.* Associate members of the Kentucky Tax Commission who serve as members of the Kentucky Alcoholic Beverage Control Board and persons appointed by the governor to fill vacancies on said Board shall receive five hundred dollars annually, in monthly installments, for their services as members of said Board.

§ 13. *Legal Counsel for Board.* The Attorney General of this Commonwealth shall, subject to the approval of the Commissioner of Revenue, appoint an additional assistant Attorney General whose sole duty shall be to act as legal counsel for the distilled spirits unit and the malt beverage unit. The assistant Attorney General appointed under this section shall be paid from the Department of Revenue appropriation, an annual salary not to exceed four thousand dollars.

## ARTICLE II

### LOCAL CONTROL AUTHORITIES

§ 14. *County Alcoholic Beverage Control Administrators and Local Regulations Thereby—Provisions Concerning.* In each county in which traffic in alcoholic beverages is permitted under sections 3554c-1 to 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, wherein it is determined by resolution of the Fiscal Court that the regulation by the county of the traffic in alcoholic beverages therein is necessary, the county judge shall constitute a County Alcoholic Beverage Administrator for said county. He shall serve without salary save the salary to which he is entitled as county judge

and he shall be disqualified to act as County Alcoholic Beverage Control Administrator by any fact that would disqualify a member of the Kentucky Tax Commission under Section 10 of this Act from acting as a member of the State Alcoholic Control Board. Any person who shall act as County Administrator in violation of this provision shall be subject to the penalties provided in Section 10 of this Act. If he shall be disqualified to act as County Alcoholic Beverage Control Administrator, or if any vacancy in such office shall occur for any other reason, the Judge of the Circuit Court of such county shall appoint to such position some person at least thirty years of age, who at the time of such appointment, shall have been a citizen of this Commonwealth and a resident of that county for at least two years next preceding the date of such appointment, and who is able to qualify. Such appointee shall serve during the unexpired portion of the term or until the county judge is able and willing to qualify. Such appointee shall serve without compensation. The functions, powers and duties of each County Administrator shall be the same, with respect to local licenses and regulations, as the functions, powers and duties of State Alcoholic Beverage Control Board, with respect to State licenses and regulations, except that no rule or regulation adopted by any County Administrator may be less stringent than the provisions set up in this Act or than those set up in the rules and regulations of the State Board, and no rule or regulation of a County Administrator shall become effective until approved by the State Board. Before entering upon his duties as County Administrator the county judge or the appointee shall take the oath prescribed in section 228 of the Constitution, and shall execute a bond with a good corporate surety in the penal sum of \$1,000 faithfully to perform the duties of his office, pursuant to the provisions of sections 3751 et sequitur of the Kentucky Statutes. The cost of said bond shall be borne by the county. Upon the qualification of any party as County Administrator it shall be his duty to immediately so notify

the State Board. If any city within any county shall appoint its own Alcohol Administrator as provided for in Section 15 of this Act the County Administrator in such county shall have jurisdiction over only that portion of the county which lies without the corporate limits of such city. In no event shall any person be eligible to apply to the State Board for any state license provided for under this Act until he shall have applied to his County Administrator, if he is subject to the jurisdiction of any County Administrator, and shall have obtained approval of his application for the county license, if in said county a county license is required. Appeals from the orders of each County Administrator may be taken by any party aggrieved to the State Alcoholic Control Board by filing with the latter board within ten days a certified copy of the orders of the County Administrator, whereupon the matters at issue shall be heard as upon an original proceeding. Appeals from orders of the County Administrator in such case and the procedure upon appeals, shall be governed by the terms and provisions of section 48 of this Act.

§ 15. *City Alcoholic Beverage Administrators and Local Regulations Thereby Permitted in Cities of the First Three Classes—Provisions Concerning.* The municipal legislative body of any city of the first, second, or third class in which traffic in alcoholic beverage is permitted under section 2554c-1 to 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, may, by ordinance duly enacted, create a City Alcoholic Beverage Administrator. No person shall be a City Administrator or employee thereof who would be disqualified to be a member of the State Board under the terms of section 10 of this Act and any person who acts as a City Administrator or employee thereof in violation of this provision shall be subject to the penalties provided in said section. Each City Administrator shall be appointed by the Mayor or by the City Manager if there be one. The functions, powers and duties of each City Administrator shall be the same, with respect to city licenses and regulations, as the functions,



powers and duties of the State Alcoholic Beverage Control Board with respect to state licenses and regulations, except that no rule or regulation adopted by any City Administrator may be less stringent than the provisions set up in this Act or than those set up in the rules and regulations of the State Board and no rule or regulation of a City Administrator shall become effective until approved by the State Board. Each City Administrator before entering upon his duties as such, shall take the oath prescribed in section 228 of the Constitution and shall execute a bond with a good corporate surety in the penal sum of not less than \$1,000 faithfully to perform the duties of his office, pursuant to the provisions of sections 3751 et sequitur of Carroll's Kentucky Statutes, 1936 edition. Each City Administrator may require any of his employees to execute a similar bond in such penal sum as it may deem necessary, conditioned upon the proper and faithful performance of his duties and a satisfactory accounting of all monies received and disbursed by such employee. The cost of such bonds shall be borne by the city. No person shall be eligible to apply to the State Board for any state license provided for under this Act until he shall have applied to his City Administrator, if he is subject to the jurisdiction of a City Administrator, and shall have obtained approval of his application for the City License. Appeals from the orders of each City Administrator, may be taken by any party aggrieved to the State Alcoholic Control Board by filing with the latter Board within ten days a certified copy of the orders of the City Administrator, whereupon the matters at issue shall be heard as upon an original proceeding. Appeals from orders of the City Administrator in such cases and the procedure upon appeals, shall be governed by the terms and provisions of section 48 of this Act.



### TITLE III

## LICENSES AND LICENSE TAXES

### ARTICLE I

#### LOCAL LICENSES

§ 16. *County Licenses and Taxes; Provisions Concerning.* The fiscal court of each county in this Commonwealth in which traffic in alcoholic beverages is permitted under sections 2554c-1 to 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, shall have power and authority to impose and collect license fees or taxes for the privilege of engaging in the business of trafficking in alcoholic beverages. It shall be the duty of the county clerk immediately to notify the State Board of the amount of the taxes fixed. Only such licenses may be issued as correspond in their provisions and the business authorized, to Retail Package Licenses, Retail Drink Licenses, and Beer Retailer's Licenses as provided in this Act. The license fees or taxes imposed shall in no event exceed twice the amount of the fees or taxes imposed in sections 18 and 96 of this Act and any amount paid to any incorporated city within the county as a license tax for the same privilege for the same year may be credited against the county license tax. The licenses authorized by this section shall be issued and the taxes collected by the county clerk who may charge a fee of fifty cents for his services for each license issued. The county clerk shall report and pay to the county treasurer at the end of each month such taxes as he has collected. No license shall be issued without the approval of the County Administrator if there be one in the county. The licenses shall be issued in such form as may be prescribed by the County Administrator, if there be one in the county, or by the State Control Board if there be no County Administrator.

§ 17. *City Licenses and Taxes; Provisions Concerning.* The city council, board of aldermen, or other municipal legislative body of each incorporated city in this Commonwealth

in which traffic in alcoholic beverages is permitted under sections 2554c-1 to 2554c-42 of Carroll's Kentucky Statutes, 1936 edition, shall have power and authority to impose and collect license fees or taxes for the privilege of engaging in the business of trafficking in alcoholic beverages. It shall be the duty of the city clerk immediately to notify the State Alcoholic Beverage Control Board of the amount of the taxes fixed. Only such licenses may be issued as correspond in their provisions and the business authorized, to the licenses provided for in the first six sub-sections of section 18 and the first three sub-sections of section 96 of this Act. The license fees or taxes imposed shall in no event exceed twice the amount of fees or taxes imposed in sections 18 and 96 of this Act. The licenses authorized by this section shall be issued and the taxes collected by the city clerk and he shall report and pay to the city treasurer at the end of each month such taxes as he has collected. No license shall be issued by the clerk without the approval of the City Administrator, if there be one in the city. The licenses shall be issued in such form as may be prescribed by the City Administrator, if there be one in the city, or by the State Control Board if there be no City Administrator.

## ARTICLE II

### KINDS OF STATE LICENSES AND TAXES FOR DISTILLED SPIRITS AND WINES

§ 18. *Expiration Date of Licenses; License Taxes.* All licenses issued under this Act shall expire on June 30th of each year. There shall be the following kinds of licenses, each of which shall be printed so as to be readily distinguishable from each other, to wit:

(1) Distiller's license, the fee for which shall be \$1,500 per annum.

(2) Rectifier's license, the fee for which shall be \$1,500 per annum.

(3) Vintner's license, the fee for which shall be \$500 per annum.

(4) License to sell distilled spirits and wine at whole sale, the fee for which shall be \$1,500 per annum.

(5) License to sell distilled spirits and wine at retail by the package for consumption off the premises, the fee for which, according to the location of the dispensary, shall be as follows:

In counties containing cities of the first class—\$500 (Five hundred dollars)

In counties containing cities of the second class—\$400 (Four hundred dollars)

In counties containing cities of the third class—\$300 (Three hundred dollars)

In counties containing cities of the fourth class—\$200 (Two hundred dollars)

In all other counties—\$100 (One hundred dollars).

(6) License to sell distilled spirits and wine at retail by the glass, for consumption on the premises, the fee for which, according to the location of the dispensary, shall be as follows:

In counties containing cities of the first class—\$700 (Seven hundred dollars)

In counties containing cities of the second class—\$600 (Six hundred dollars)

In counties containing cities of the third class—\$500 (Five hundred dollars)

In counties containing cities of the fourth class—\$400 (Four hundred dollars)

In all other counties—\$300 (Three hundred dollars).

(7) License to transport distilled spirits and wine to or from any point in Kentucky, the fee for which shall be \$10 per annum.

(8) License to sell distilled spirits and wine by the package or by the glass upon railroad dining cars, the fee for which shall be \$50 per annum.

(9) Special licenses as provided for in Section 29 of this Act, the fee for which shall be \$2.00 per annum.

§ 19. *Credit on State Retail Licenses.* On alcoholic beverage licenses issued by the State for any license period beginning on or after July 1, 1939, there shall be credited on the license tax one-half of any amount required to be paid to any county or to any incorporated city for the same privilege for the same year, provided the amount of the tax for the State license shall in no event be reduced more than fifty per cent.

§ 20. *Abatement of Taxes for Licenses for Fractional Parts of Fiscal Year.* When any person shall apply for any license, authorized to be issued under this Act, after July 1st of any year, he shall be charged, if such license be granted, an amount equal to as many twelfths of the annual license tax as there are calendar months (including the month in which the license is granted) until the following July 1st, except that no license shall be issued for a shorter period than six months. No abatement of license taxes shall be permitted or granted to any person who held a license of the same kind for the same premises in the preceding license period and who was actually doing business under said license during the last month of the preceding license period.

### ARTICLE III

#### TRAFFIC AUTHORIZED BY VARIOUS LICENSES

§ 21. *Business Authorized Under Distiller's, Rectifier's of Vintner's License, Respectively.* A distiller's rectifier's or vintner's license, as the case may be, shall authorize the holder thereof, at the premises specifically designated in the license, to engage in the business of distiller, rectifier, or vintner, as the case may be, as those terms are defined in this Act, and to transport for himself only any alcoholic beverage which he is authorized under his license to manufacture or sell, provided that he so transports such beverages by a truck, wagon, or other vehicle owned and operated by himself, and which shall have affixed to its sides at all times a sign of such

form and size as may be prescribed by the State Board, containing among other things the name and license number of the holder of such license.

§ 22. *Transactions Permitted and Prohibited to Distillers, Rectifiers, and Vintners.* Sales and deliveries of alcoholic beverages may be made at wholesale, and from the licensed premises only, (1) by distillers to licensed rectifiers, licensed vintners, holders of special non-beverage alcohol licenses so far as they are authorized to make the purchases, or other licensed distillers; by rectifiers to licensed vintners; by vintners to licensed rectifiers or other licensed vintners, or to the holders of special non-beverage alcohol licenses; or (2) by distillers, rectifiers or vintners to licensed wholesalers; or (3) by licensed distillers, rectifiers or vintners for export out of the Commonwealth; provided, no distiller, rectifier or vintner, shall sell or contract to sell, give away or deliver any alcoholic beverages to any person, who is not duly authorized by the law of the State of his residence and of the Federal Government if located in the United States, to receive and possess said alcoholic beverages; and in no event shall he sell or contract to sell, give away or deliver, any of his products to any retailer or consumer in Kentucky.

Distillers may purchase distilled spirits only from other licensed distillers.

Rectifiers may purchase distilled spirits or wine only from distillers or vintners licensed under this Act; or from non-residents duly authorized by the law of the State of their residence and by the Federal Government, if located in the United States, to make the sales.

Vintners may purchase distilled spirits or wine only from distillers or vintners licensed under this Act or from non-residents duly authorized by law of the State of their residence and by the Federal Government, if located in the United States, to make the sales.

§ 23. *Business Authorized Under a Wholesaler's License.* A wholesaler's license shall authorize the holder



thereof to purchase, receive, store, and possess distilled spirits and wine; to sell same at wholesale, from the licensed premises only; and to transport from his licensed premises for himself only any alcoholic beverages which he is authorized under his license to sell, provided that he so transport such beverages in the manner provided for manufacturers in Section 21 of this Act.

§ 24. *Transactions Permitted and Prohibited to Wholesalers.* A wholesaler may sell, deliver and transport distilled spirits and wine at wholesale, and from the licensed premises only, to:

(1) Other licensed wholesalers.

(2) Licensed retailers.

(3) For export out of the Commonwealth to parties duly authorized by the law of the State of their residence, and by the Federal Government, if located in the United States, to receive same, provided distilled spirits and wine so exported shall be shipped only by common carrier.

No wholesaler shall sell or contract to sell, give away or deliver any distilled spirits or wine to any person in Kentucky who is not duly licensed under this Act to receive, possess, distribute or sell same, and in no event shall he sell or contract to sell, give away or deliver any distilled spirits or wine to any consumer. Provided, this section in no event shall be construed to permit sales or deliveries of distilled spirits in Kentucky by licensed wholesalers to unlicensed non-residents.

Wholesalers may purchase and receive, at the licensed premises only, distilled spirits and wine at wholesale from distillers, rectifiers, vintners or other wholesalers licensed under this Act, or from non-residents duly authorized by the law of the State of their residence, and by the Federal Government if located in the United States, to make the sales.

§ 25. *Business Authorized Under a Retail Package License.* A Retail Package License shall authorize the holder thereof to purchase, receive, possess and sell distilled spirits and wine at retail in unbroken packages only and only for

consumption off the licensed premises. The holder of such a license shall purchase distilled spirits and wine in retail packages only and only from wholesalers licensed under this Act. Such Retailers may sell only to consumers and may make deliveries at the premises designated in their licenses.

§ 26. *Business Authorized Under Retail Drink License.* A Retail Drink License shall authorize the holder thereof to purchase, receive, possess and sell distilled spirits and wine at retail by the glass for consumption on the licensed premises. The holder of such a license shall purchase distilled spirits and wine only from wholesalers licensed under this Act and shall not buy or possess distilled spirits in containers of a capacity smaller than twenty ounces.

§ 27. *Business Authorized Under a Transporter's License.* A Transporters License shall authorize the holder to transport distilled spirits and wine to or from the licensed premises of any licensee under this Act, provided both the consignor and consignee in each case are authorized by the law of the states of their residence, respectively, to sell, purchase, ship, or receive the alcoholic beverages, as the case may be.

§ 28. *Business Authorized Under Dining Car License.* A Special Dining Car License may be issued to any railroad or Pullman Car company which shall authorize the holder to exercise only on a particular dining car designated in the license, the privilege of a Retail Drink licensee as set out in section 26 of this Act, subject to the same restrictions provided in the case of a Retail Drink licensee.

§ 29. *Kinds of Special Licenses.* The following kinds of licenses may be issued by the Distilled Spirits Administrator for carrying on the activities enumerated in the next section with respect to distilled spirits and wine: Namely,

- (1) Special Non-Beverage Alcohol Vendor's Licenses.
- (2) Special Industrial Alcohol License.
- (3) Special Non-Industrial Alcohol License.
- (4) Special Agent's or Solicitor's License.

(5) Special Storage or Warehouse License, the fee for which shall be \$50.00 per annum.

(6) Special Temporary License.

(7) Special Private Club License, the fee for which shall be \$150.00.

(8) Such other Special License as the State Alcoholic Beverage Control Board may find necessary for the administration of this Act and for the proper regulation and control of the traffic in distilled spirits, and may provide for by regulation duly adopted. In fixing the amount of such license taxes as are required to be fixed by the State Board, it shall have regard for the value of the privilege granted and fix the amount of the tax in keeping with the policy expressed in Section 18 and this section.

§ 30. *Business Authorized Under Special Licenses; Exemption from Consumer's Tax; Sales in Local Option Territory.* Upon a proper application the Distilled Spirits Administrator may issue:

(1) A special Non-Beverage Alcohol Vendor's License which shall authorize the holder to purchase, import, possess, store and sell alcohol only to holders of Special Industrial Alcohol Licenses or Special Non-Industrial Alcohol Licenses, or for export out of the Commonwealth for non-beverage purposes.

(2) A special Industrial Alcohol License which shall authorize the holder to purchase alcohol only from the holder of a Distiller's License or special Non-Beverage Alcohol Vendor's License and possess alcohol for use in the manufacture and sale of any of the following products, when they are unfit for beverage purposes, namely:

(a) Denatured alcohol produced, used, and sold pursuant to Acts of Congress and regulations promulgated thereunder.

(b) Patent, Proprietary, medicinal, pharmaceutical antiseptic, and toilet preparations.

(c) Flavoring extracts, syrups and food products.

(d) Scientific, chemical, mechanical, and industrial products.

(3) A Special Non-Industrial Alcohol License to any duly authorized and bona fide hospital, museum, laboratory, charitable, educational or similar public or private institution, or to a drug store employing a licensed pharmacist, or to a licensed physician, which license shall entitle the holder to import alcohol or to purchase alcohol in Kentucky only from the holder of a Special Non-Beverage Alcohol Vendor's License and to use same only for non-beverage purposes.

(4) A Special Agent's or Solicitor's License to a duly authorized representative, employee or agent of, or solicitor for a distiller, rectifier, vintner or wholesaler, who has been duly licensed under this Act, or who is a non-resident of this Commonwealth and duly licensed by the State of residence and by the United States if a resident therein. Such license shall authorize the holder to offer for sale and to solicit orders for the sale of any alcoholic beverage sold by a distiller, rectifier, vintner or wholesaler who has been duly licensed under this Act or who is a non-resident of this Commonwealth, and shall set forth the name, address and, unless it be a non-resident of this Commonwealth, the license number of the vendor or vendors whom the agent or solicitor represents, as well as the name, address and license number of such agent or solicitor. Such agent or solicitor shall not represent any vendor or licensee whose name does not appear upon such license.

(5) A Special Warehouse License to parties not otherwise entitled under this Act to store or warehouse distilled spirits or wine, but who are so authorized by the Federal Government and who are required to keep as a part of their permanent records United States Treasury Department Forms 52A and 52B, which license shall authorize the licensee to operate a warehouse or place of storage for distilled spirits or wine on the premises specifically designated.

(6) A Special Temporary License to any regularly



organized fair, exposition, racing association, or other party, when in the opinion of the State Board a necessity therefor exists, which license shall authorize the licensee to exercise the privileges of Retail Drink Licensee at the designated premises for a certain specified and limited time, not in any event longer than thirty days. All restrictions and prohibitions applying to a Retail Drink Licensee shall apply also to a Special Temporary License. The fee for such license shall be twice the proportional part of the tax for a full year's license, counting any part of a month a full month.

(7) A Special Private Club License to any non-profit social, fraternal, military or political organization or club, which for more than one year prior to the date of application has maintained and operated a club room or rooms from which the general public is excluded. Such license shall authorize the licensee to exercise the privilege of Retail Drink Licensee at the designated premises, provided the general public is excluded. All restrictions and prohibitions applying to a Retail Drink Licensee shall apply to a Special Private Club Licensee.

(8) Notwithstanding the provisions of Chapter I of Acts of the General Assembly at the Third Extraordinary Session, 1936, being sections 4281c-1 to 421c-24, inclusive, of Carroll's Kentucky Statutes, 1936 edition, all distilled spirits and wine purchased by holders of the Special Licenses provided for in sub-sections two and three of this section and purchased and used in the manner authorized by said Special Licenses, shall be exempt from consumer's tax of \$1.04 per gallon on distilled spirits and 25c per gallon on wine.

(9) No provisions contained in sections 2554c-1 to 2554c-42, inclusive, of Carroll's Kentucky Statutes, 1936 edition, shall be construed to prevent the issuance of the Special License provided in sub-sections two and three of this section to persons located in local option territory or to prevent said persons from exercising the privileges granted in said license.



## ARTICLE IV

## LICENSES: WHO MAY RECEIVE AND HOW OBTAINED

§ 31. *Inconsistent Licenses Not to be Held.* The licenses listed in section 18 and the special licenses listed in section 29 of this Act shall be considered inconsistent each with every other, and any person holding a license of any of the kinds above referred to shall be ineligible to apply for and is hereby prohibited from holding a license of another kind; except nothing in this section shall be construed to prevent the holder of a Retail Package License from holding also either a Retail Drink License or a Special Non-Industrial Alcohol License, or to prevent the holder of a Transporters License from holding also a Special Storage or Warehouse License, or to prevent the holder of a Wholesalers License from holding also either a Special Non-Beverage Alcohol Vendor's License or a Vintner's License, or to prevent any person from holding two or more licenses of the same kind.

§ 31½. *Licenses Prohibited in Certain Localities.* Licenses to sell distilled spirits and wine by the drink for consumption on the premises or by the package for consumption off the premises may be issued only for premises located within incorporated cities, or in counties containing a city of the first, second or third class, provided said counties maintain a county police force under the provisions of sections 370 to 3786, inclusive, of Carroll's Kentucky Statutes, 1936 edition.

§ 32. *Corporate Entity Disregarded.* In all cases in which the provisions of this Act prohibit the holder of one kind of license from applying for or holding any other kind of license, an applicant shall not be permitted to evade the prohibition against applying for or holding licenses of two kinds by applying for a second license under the cloak of a separate Corporate entity. The Administrator is hereby authorized to examine into the ownership and management of corporations which apply for licenses or which hold licenses, and shall deny the application for a license to any party substantially interested in another incompatible license.

§ 33. *Applications for Licenses: Issuance of Same.*

Applications for any license provided for in section 18 of this Act shall be made to the Administrator of the Distilled Spirits Unit at his office in Frankfort, Kentucky; shall be in writing on forms furnished by the Department of revenue, and verified; and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as this Act or the State Board shall by regulation require. Said application shall be accompanied by a certified check, or cash, or a postal or express money order for the amount of money required by this Act for a license of the kind applied for. If the Administrator shall grant the application he shall issue the proper license in such form as shall be determined by the State Board by regulation, subject to the provisions of section 38 of this Act. No license except those provided in subsections 6 and 8 of section 29 of this Act shall be issued in less than twenty days or delivered in less than thirty days from the time the application and remittance were received by the Department of Revenue.

§ 34. *Deposit and Refund of Taxes.* Any remittance made to the Department of Revenue in payment of a license tax shall immediately be deposited in State Treasury and credited to the General Expenditure Fund. In the event that the payment was erroneously made or that the Administrator refuses to issue the license the Department of Revenue if at the expiration of ten days no appeal has been filed under section 42 of this Act, shall authorize the refund of the amount paid or the amount erroneously paid. An amount sufficient to cover all refunds above referred to is hereby appropriated for each fiscal year hereafter, to be paid out of the General Expenditure Fund in the same manner that other obligations of of the Commonwealth are paid. No further appropriation shall be required to authorize the refunds above referred to and the same shall be made whether the payments were voluntary or involuntary, were made under protest or not.

§ 35. *Notice of Intention to Apply for License.* Every

person before applying for any license under section 18 of this Act shall advertise his intention so to apply by inserting in a newspaper of general circulation in the county in which are located the premises for which the license is sought (if there be any such newspaper in the county and if there be no newspaper of general circulation in the county then in the closest adjacent city which has such a newspaper) at least once a week for two consecutive weeks next before such application is filed, a concise advertisement stating the name and address of the applicant if he be an individual, the names and addresses of the members of partnership if the applicant be a partnership, as well as the name of the business and its address, or, if the applicant be a corporation, the names and addresses of the principal officers and directors of the corporation, as well as the name and address of the corporation itself; the location of the premises for which the license is sought, and the type of license to be applied for. The applicant shall attach to the application a newspaper clipping of such advertisement and a proof of such publication, substantially in the following form, to wit:

“State of Kentucky,

County of.....ss:

....., of.....being  
first duly sworn, says that he is.....of the  
publisher..... of the....., a newspaper  
printed and published in the State of.....,  
County of....., and having a general  
circulation in the County of....., and that  
the advertisement of which the annexed is a true copy has  
been published in said newspaper on the following dates, viz.:

.....  
.....  
(Line for signature)

“Subscribed and sworn to before me, a Notary Public  
within and for the State and County aforesaid by.....

.....to me personally known, this.....day of.....  
My commission expires the.....day of.....

.....,  
Notary Public.....

County .....”

§ 36. *Sworn Information to be Contained in Applications, Revocation for False Statement.* In addition to such other information as the Alcoholic Beverage Board may by its rules and regulations require, every application for a license under this Act shall contain the following information, given under oath:

(1) The name, age, address and residence of each applicant, and if there be more than one and they be partners, the partnership name and address, and the names, ages and addresses of the several persons so applying, and the facts as to his or their citizenship.

(2) The name and address of each person interested or to become interested in the Business for which the license is sought, together with the nature of such interest; and if such applicant be a corporation, the names, addresses and ages of each officer, director and employee and the facts as to their citizenship, and the State under the laws of which such corporate applicant is incorporated, provided the Department is hereby authorized to require the names of all the stockholders.

(3) The premises to be licensed, stating the street and number, if the premises have a street number, and otherwise such apt description as will reasonably indicate the location thereof. The applicant shall also state the nature of his interest in the premises; and the name, age and address of any other person, either as principal or associate interested with the applicant either in the premises or in the business to be licensed, and the facts as to his or their citizenship.

(4) A statement that neither such applicant nor any of the other persons referred to in this section has been convicted of a felony or of any misdemeanor directly or indirectly



attributable to the use, manufacture, sale of or traffic in intoxicating liquors; that he has not, or that they have not, had any license issued to him or to any of them under this Act revoked for cause within two years prior to the date of such application, or been convicted of a violation of any of the provisions of this Act within such period.

(5) A statement that the applicant will in all respects and in good faith conscientiously abide by all the provisions of this Act and of any other Act or ordinance relating to alcoholic beverages which may be in force in the location at which the applicant seeks to do business, as well as all rules and regulations of the State Alcoholic Beverage Board and, if the applicant seeks to do business in a county where local regulations are in effect, all rules and regulations of the local alcoholic beverage control authority.

(6) If there be any change after the granting of a license in any of the facts required to be set forth in such application, a supplemental statement in writing giving notice of such change, duly verified, shall be filed with the Alcoholic Beverage Board within ten days after such change. Failure so to do shall, if willful and deliberate, make mandatory the revocation of the license. In giving any notice, or taking any action in reference to a license, the Alcoholic Beverage Board may rely upon the information furnished in the application or in the supplemental statement connected therewith, and such information, as against the licensee or applicant, shall be conclusively presumed to be correct. The information required to be furnished in such application or supplemental statement shall be deemed material in any prosecution for perjury.

(7) Any false material statement contained in an application shall be ground for refusal to issue a license, or if the falsity of the statement be not discovered until after a license has been issued, revocation of such license shall be mandatory.

§ 37. *Bond to Accompany Each Application.* Every applicant for a license under section 18 of this Act shall



accompany his application with a bond to the Commonwealth of Kentucky in such penal sum as may be prescribed by the rules and regulations of the State Alcoholic Beverage Board, with a corporate surety approval by the division of Insurance of the Department of Business Regulation of the Commonwealth of Kentucky as to solvency and responsibility and authorized to transact business within this Commonwealth, conditioned that such applicant, if granted the license sought, will not suffer or permit any violation of the provisions of this Act and that all fines and penalties which shall accrue during the time that the license shall be in effect will be paid, together with all costs taxed or allowed in any proceeding brought or instituted for a violation of any of the provisions of this Act. Every applicant for a wholesaler's license shall, in addition to the bond above referred to, accompany his application with a bond to the Commonwealth of Kentucky, in an amount and with surety approved by the Department of Revenue, conditioned that such applicant, if granted the license sought, will pay all taxes and penalties which shall accrue during the time that the license shall be in effect, together with all costs taxed or allowed in any proceeding brought or instituted for the collection of such taxes. A suit to recover on any such bonds may be brought in the Franklin Circuit Court or in the Circuit Court of the county in which the licensed premises are located, in the name of the Commonwealth of Kentucky, by the Commissioner of Revenue or on relation of any party aggrieved, and in the event that the obligor named in each bond has violated any of the conditions of such bond, recovery of the penal sum of such bond may be had in favor of the Commonwealth of Kentucky or of the party aggrieved.

§ 38. *Form of Licenses.* All licenses issued under this Act shall be in such form as may be prescribed by the rules and regulations of the Alcoholic Beverage Board not inconsistent with the provisions of this Act, and they shall contain:

(1) Name and address of the person to whom the license is issued.

(2) The number of the license.

(3) The type of the license.

(4) A description by street and number, or otherwise, of the licensed premises.

(5) The name and address of the owner of the building in which the licensed premises are located.

(6) The expiration date of such license.

(7) A statement in substance that such license shall not be, or be deemed, a property or vested right, and that it may be revoked at any time pursuant to law.

§ 39. *Statement of Cause of Revocation to be furnished Licensees.* There shall be printed and furnished by the Department of Revenue to each licensee under this Act a statement of the cause for which licenses may be revoked. Such statement shall be prepared by the Distilled Spirits Administrator or the Malt Beverage Administrator and delivered to the licensee with his license, or as soon thereafter as may be practical, and said Administrator shall take from said licensee a signed receipt stating that he has received and read said statement. Any changes in or additions to the causes for which licenses may be revoked shall also be sent by the Distilled Spirits Administrator or the Malt Beverage Administrator to each licensee at his address as it appears in his application or the last amendment thereto, as soon as may be practical after such changes in or additions to the cause for which licenses may be revoked become effective. Failure to furnish such statement or to send such notice of changes therein, or the failure of the licensee to receive or read same, or any error contained in such statement or notice of changes therein shall not, however, be an excuse or justification for any violation of law, or prevent, remit or decrease any penalty therefor.

§ 40. *License to be Framed, Posted and Not Defaced; Lost or Destroyed Licenses.* Before commencing or doing

any business for the time for which a license under Section 18 of this Act has been granted said license shall be enclosed in a suitable wood or metal frame enclosing a clear glass space so that the whole of said license may be seen therein, and shall be posted and at all times displayed in a conspicuous place in the room or principal room where such business is carried on, so that all persons visiting such place may readily see the license. It shall be unlawful for any person holding a license to post such a license, or to permit it to be posted, upon premises other than the premises licensed, or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly to deface, destroy or alter any such license in any respect. Whenever a license shall be lost or destroyed without fault on the part of the licensee or his agents or employees, a duplicate license in lieu thereof shall be issued by the Distilled Spirits Administrator upon submission of satisfactory proof and payment of a fee of \$5.00.

§ 41. *Cause for Refusal of License.* Any license authorized to be issued under this Act must be refused if the applicant therefor or the premises for which same is sought do not comply fully with all the terms and provisions of this Act, and with the rules and regulations of the Alcoholic Beverage Board, or of any ordinance relative to the regulation of the manufacture, sale, and transportation of alcoholic beverages, of of any rules and regulations of any City Administration or County Administrator created or authorized to be created by this Act, or if the applicant shall have done any act for which a revocation of license would be authorized under this Act; and if the applicant seeks to do business in a City or County wherein a City Administrator or County Administrator shall have required a local permit or license for the sale, manufacture or transportation of alcoholic beverages, then any application to the State Alcoholic Beverage Board for a license authorized to be issued by it under this Act must be refused if the applicant shall not first have procured approval of appli-

cation for a local permit or license; and in any event, any license authorized to be issued under this Act may be refused for any reason which the Administrator in the exercise of his sound discretion, may deem sufficient.

§ 42. *Rejection of Application, Request for Hearing.* Every applicant for a license authorized to be issued under this Act, if he so desired, shall be entitled to a hearing by the State Alcoholic Beverage Board, or such person as it may select or designate, before the Administrator rejects his application. If said Administrator determines to reject the application he shall notify the applicant of the fact by mailing a registered letter to him directed to the address given in his application or in the last statement filed supplementary thereto. If within ten days after the date of the mailing of such notice of intended rejection the applicant indicates in writing his desire to be present and heard, his application shall not finally be passed upon until the Board shall have fixed a day for such hearing.

## ARTICLE V

### REVOCATION AND SUSPENSION OF LICENSES

§ 43. *Causes for Revocation.* Any license issued under this Act may be revoked by the State Board if the licensee shall have violated any of the provisions of this Act or of sections 4214a-12 to 23 inclusive, 4281c-1 to 25 inclusive, 2554b-1 to 79 inclusive or 2554-1 to 8 inclusive of Carroll's Kentucky Statutes, 1936 edition, or any rule or regulation of the Department of Revenue or the Division of Alcoholic Control of the Department of Business Regulation in effect before the passage of this Act or now in effect, relating to the regulation of the manufacture, sale and transportation or taxation of alcoholic beverages or if any such licensee shall violate any of the rules and regulations of the State Alcoholic Beverage Board or if such licensee shall have violated or shall violate any act of Congress or any rule or regulation of any Federal board, agency or commission, or any ordi-



nance now, heretofore, or hereafter in effect relating to the regulation of the manufacture, sale and transportation or taxation of intoxicating liquors or any rules or regulations of any local Alcoholic Beverage authority or any similar body heretofore in existence or authorized by the terms of this Act to be created, or if any clerk, agent, servant, or employee of any licensee shall violate any of the laws, regulations or ordinances above referred to, irrespective of whether the licensee knew of or permitted the violation or whether the violation was committed in disobedience of his instructions, or any such license may be revoked for any cause which the Alcoholic Beverage Board, in the exercise of its sound discretion, deems sufficient. A license may be revoked for any of the reasons for which the Administrator would have been required to refuse a license if the facts had been known. Any license issued under this Act must be revoked for the following causes:

(1) Conviction of the licensee or his agent or employee for selling any illegal beverages on the premises licensed.

(2) Making any false, material statement in an application for a license.

(3) Transferring, assigning, pledging, depositing or hypothecating a license, or paying for the license of another or permitting another to pay for one's own license.

(4) Violation of the provisions of section 62 and section 67 of this Act shall cause a forfeiture of the licenses issued under section 18 of this Act to all parties participating or concerned in the violation.

(5) Selling or agreeing to sell alcoholic beverages to a wholesaler or retailer or any person for resale who is not licensed at the time.

(6) If, within a period of two consecutive years, there shall have been two or more convictions of any licensee or of any of his clerks, servants, agents or employees for any violation of the terms and provisions of this Act or any Act heretofore or hereafter in effect relating to the regulation



of the manufacture, sale, and transportation of alcoholic beverage of if, within such period, any licensee or any of his clerks, servants, agents or employees shall have twice been convicted of any felony or of any misdemeanor directly or indirectly attributable to the use of intoxicating liquors, or of one such felony and one such misdemeanor.

(7) Willful and deliberate failure or default of a licensee to pay an excise tax or any part thereof, of any penalties imposed by or under the provisions of any Statutes, ordinances or Acts of Congress relative to taxation, or for a violation of any rules or regulations of the Department of Revenue made in pursuance thereof.

(8) Revocation of any license or permit provided in sections 16 and 17 of this Act or granted under any Act of Congress relative to the regulation of the manufacture, sale and transportation of alcoholic beverages.

§ 44. *Procedure Relative to Revocations.* The Distilled Spirits Administrator or the Malt Beverage Administrator or such person as he may select or designate may, on his own initiative, or on complaint of any person, institute proceedings to revoke any license issued under this Act. Such revocation shall not be had except upon five days notice to the licensee and an opportunity by him to be heard. All such hearings shall be before the State Board or such person as it may select or designate, and shall be conducted in accordance with the provisions of section 48 of this Act.

§ 45. *Surrender of Revoked License; Notice to Police Officials.* Within three days after any order or revocation of a license issued pursuant to this Act shall have become final, notice of such revocation shall be given to the licensee and to the owner of the licensed premises. A notice mailed to the licensee and to the owner of the licensed premises at the address shown in the last application for a license or in the last statement supplemental to such application shall be deemed sufficient compliance with the provision contained in this section relative to notice. Such licensee shall thereupon

at once surrender his license to the State Alcoholic Beverage Board. If the license revoked be for premises located in any city having a police force of its own, said Board immediately upon mailing said notice of the revocation of the license shall mail to the chief official of the police department of such city a written notice stating the fact of the revocation, the name of the licensee whose license was revoked, the address of the premises theretofore licensed under such revoked license, and the date of the revocation. If the license revoked be for premises not located in any city having a police force of its own, said Board shall in like manner and at like time mail a similar notice to the sheriff of the county in which said premises are located. If the revoked license be not forthwith surrendered by the licensee it shall be the duty of such police official, or sheriff, as the case may be, at the request of said Board, immediately to cause one of his officers to take physical possession of such license and return same to said Board.

§ 46. *Revocation: Disposition of Stock.* When a license issued under this Act shall have been revoked the former licensee shall have the right, under the supervision of the Administrator to dispose of and transfer his stock of alcoholic beverages to a party or parties who hold licenses under this Act, provided such disposition of stock on hand shall not be delayed longer than ninety days in the case of distillers, rectifiers, or vintners, nor longer than thirty days in the case of wholesalers or distributors, nor longer than ten days in the case of retailers. Transfers in such cases shall be exceptions to provisions as to the rights of licensees to make purchases, as set out in sections 21, 23, 26 and 28 of this Act.

§ 47. *Suspension of Licenses.* Upon proceedings for the revocation of any license under section 44 of this Act the State Control Board may in its discretion order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of section 43; except a suspension shall be ordered only in case of a first offense and shall in no case extend longer than sixty

days. Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in sections 48 and 49 of this Act.

§ 48. *Conduct of Hearing by State Board.* Hearings upon appeals from orders of a County Administrator under section 14, or from order of a City Administrator under section 15, or from a decision of an Administrator under section 42, or upon proceedings for revocation or suspension under section 44 or 47 of this Act shall be held by the State Control Board or by a referee designated by said Board. The Board or the referee shall control the introduction of evidence, and shall hear all such arguments of the parties or their counsel as it or he deems necessary or appropriate. The procedure on hearings provided for in this section shall be summary, and in accordance with the rules and regulations of the State Control Board. A record of the orders appealed from or the charges filed, of the evidence, heard and of all steps taken, shall be kept by the Board. In case a referee is appointed to hold hearings, decisions shall be made and orders entered nevertheless only upon vote of a majority of the Board.

§ 49. *Judicial Review of Order of Board; Parties and Procedure; Costs.* Any order of the Alcoholic Beverage Board refusing a license or revoking or suspending a license may be appealed from by the applicant or licensee, as the case may be, and any order of said Board granting a license or refusing to revoke or suspend a license may be appealed from by any citizen feeling himself aggrieved. The party aggrieved may, within ten days after the entry of the order with which he is dissatisfied, file in the office of the Clerk of the Franklin Circuit Court an attested copy of the order, of all the evidence heard, and of all the steps taken by said Board relative to the order being contested, provided he shall first post a bond to secure the costs of that action in such sum as may be approved by the Circuit Clerk, with a corporate surety approved by the Division of Insurance of the Department of Business Regulation as to solvency and responsibility

and authorized to transact business in this Commonwealth. The State Board and the licensee or applicant shall be necessary parties to all such appeals. The Circuit Court Clerk shall thereupon docket the case as though it were a petition in equity, and shall immediately issue a summons for said State Board, if the appeal be taken by an applicant or licensee, or a summons for said State Board and the licensee if the appeal be prosecuted by a citizen. Such summons shall be returnable in the same manner as are summonses in equity cases. If the appeal be from an order refusing to grant a license or revoking or suspending a license, it shall be the duty of the State Board, when served with such summons, or of such person as it may designate, to appear and defend the action of the State Alcoholic Beverage Board in refusing to grant or in revoking the license in question. If the appeal be from an order granting a license or refusing to revoke or suspend a license the burden of appearing and defending the action of said Board shall be upon the licensee.

No formal pleading shall be required in such appeals, but the case shall be set down by the court for as early a day as possible for a hearing, and such appeals shall in all respects be expedited as are declaratory judgment suits; after such hearing the court shall enter a judgment sustaining or setting aside the order of the State Alcoholic Beverage Control Board appealed from. No new or additional evidence may be introduced in the Circuit Court except as to the fraud or misconduct of some party engaged in the administration of this Act and affecting the order appealed from, but the Circuit Court shall otherwise hear the case upon the record as attested by the Board, and shall in all respects dispose of the appeal in a summary manner, its review being limited to determining whether or not:

- (1) The Board acted without or in excess of its powers.
- (2) The order appealed from was procured by fraud.

(3) If questions of fact are in issue, whether or not any competent evidence supports the order appealed from.



The determination of the Circuit Court shall be final and conclusive, and no appeal from its decision shall be allowed.

If the appeal be from an order refusing to grant a license, or revoking or suspending a license, the costs shall be taxed against the applicant or licensee in any event. If the appeal be from an order granting a license or refusing to revoke or suspend a license, the costs shall be taxed against the citizen who, feeling himself aggrieved, has contested the order, in the event that the order of the Board granting the license or refusing to revoke or suspend the license, is sustained. In the event that such order is set aside with direction to the Board to refuse the license or to revoke or suspend the license, the costs shall be taxed against the licensee.

No order granting a license shall become effective, and no license thereunder shall be issued, until the expiration of ten days after the date of the entry of such order; and if, within said period of ten days, an appeal from said order shall have been filed as provided by this section, then such order shall not become effective until said appeal shall have been finally determined.

If a license shall be revoked or suspended, the licensee shall at once suspend all business or other operations authorized under his license, except as provided in section 46 of this Act, though he may file an appeal in the Circuit Court from the order of revocation or suspension, and no court shall have authority to issue an injunction to suspend the operation of an order of revocation or suspension pending an appeal.

§ 50. *Authorization by Board for Continuance in Business by Representative of Defunct Licensee.* If a corporation or co-partnership holding a license under this Act shall be dissolved, or if a receiver or assignee for the benefit of creditors, or a committee for the property of an individual holding a license issued under this Act, be appointed during the time for which such license was granted, or if an individual holding a license granted under this Act shall die during the



time for which such license was granted and a personal representative shall be appointed for his estate, such corporation or co-partnership, receiver or assignee, or the personal representative of the estate of said deceased or individual adjudged to be incompetent, may continue to carry on such business upon the licensed premises for the balance of the term for which the license was effective, with the same rights and subject to the same restrictions and liabilities as if he had been the original licensee, provided the approval of the Administrator who issued the license shall first be obtained. Before continuing such business such receiver, assignee, personal representative, or committee as the case may be, shall file a statement setting forth in such form as the Alcoholic Beverage Board may prescribe the facts and circumstances by which he has succeeded to the rights of the original licensee. The Administrator may, in the exercise of his sound discretion, permit or refuse to permit the continuance of such business. In the event the Administrator permits the continuance of such business the license shall be submitted to him, and he shall write or stamp across the fact of said license the words:

“..... is permitted to exercise the rights and privileges of the original licensee hereunder as assignee (or receiver, personal representative or committee, as the case may be) of the original licensee for the unexpired term of his license.” Such endorsement on the face of the license shall be dated and signed by the person making it. The applicant shall pay a fee of \$5.00 upon procuring such endorsement.

§ 51. *Transfer to Different Premises.* In case of destruction by an act of God or casualty for which the licensee was not responsible, of premises for which a license under this Act shall have been issued, the Administrator who issued the license may, if in his discretion such action is necessary to attain justice, change the license to authorize continuance of business at other premises. No such transfer shall be made unless the licensees shall have filed a written verified state-

ment of the reasons for the necessity of transfer. If such transfer is made the Administrator shall endorse a description of the new premises upon the license and shall date and sign the endorsement.

## TITLE IV

# PROHIBITIONS, RESTRICTIONS AND REGULATIONS

## ARTICLE I

### PROHIBITIONS, RESTRICTIONS AND REGULATIONS RELATING TO ALL PERSONS

§ 52. *No Traffic in Alcoholic Beverages Save Under License.* It shall be a criminal offense for any person to manufacture, store, sell, purchase, transport or otherwise in any manner traffic in alcoholic beverages as that term is defined in this Act, without first having paid to the Department of Revenue at its office in Frankfort, the license tax required by this Act, and without first having obtained the license required by this Act.

In addition to the criminal penalty prescribed for violation of this section, it is explicitly provided that, as often as any person shall manufacture, store, sell, purchase, transport, or otherwise traffic in alcoholic beverages without first having paid to the Department of Revenue at its office in Frankfort the license tax required by this Act, said person shall be required to pay said license for the full year notwithstanding that no license shall be issued, together with a penalty equal to twenty (20%) per cent of said license tax.

§ 53. *Declaring Certain Property Contraband; Providing for Its Disposition.* The following property is hereby declared to be contraband: (1) Any illicit still designed for the unlawful manufacture of intoxicating liquors, or any apparatus designed for the unlawful manufacture of spirituous, vinous, malt or intoxicating liquors. An illicit still or apparatus designed for the unlawful manufacture of intoxicating liquors shall include (a) an outfit or parts of an outfit commonly used, or intended to be used, in

the distillation or manufacture of spirituous, vinous or malt liquors which is not duly registered in the office of a collector of Internal Revenue for the United States, and the burden of proving that same is so registered shall be on the defendant or defendants under charge; (b) any and all material, equipment, implements, devices, firearms, and other property used or intended for use, directly and immediately, in connection with the illicit traffic in alcoholic beverages. (2) Any spirituous, vinous or malt liquors in the possession of any one not entitled to possession of the same under the provisions of this Act. (3) Any spirituous, vinous or malt liquors in the possession of any one and to which the revenue stamps have not been affixed as and when required by the provisions of the Alcoholic Beverage Tax Act, sections 4281c-1 to and including 4281c-25, Carroll's Kentucky Statutes, one thousand nine hundred thirty-six (1936 edition). (4) Any distilled spirits, wine or malt beverage in a container of a size prohibited by law or prohibited to particular party in whose possession same is found. (5) Any distilled spirits or wine kept in an unauthorized place within any licensed premises under the provisions of section 77 of this Act. (6) Any motor vehicle, water or air craft, or other vehicle in which any person is illegally possessing or transporting alcoholic beverages.

Any peace officer, including the Administrators, and the field representatives of the Department of Revenue are hereby authorized to seize, without warrant, any of the property declared to be contraband under this section and to hold the same subject to the order of the court which the owner or one in possession of such property has been arraigned. Upon conviction of the defendant the court shall enter an order vesting title in all the contraband property in the Alcoholic Control Board, subject to the right of any owner or lienor of property in subsection six above, whose lien is of record, to intervene and establish his rights in such property by proving that the property was being used without the knowledge, con-

sent or approval of such owner or lienor. If the owner of the property does so prove, the court shall order the property restored to such owner. If the lienor so proves the court shall order a sale of the property at public auction. The expenses of keeping and selling the same, and of all valid recorded liens which are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid into the State Treasury and be credited to the General Expenditure Fund. The court shall order all sales under this Act in which lienors have an interest to be made by the sheriff who shall receive and be allowed the same fees as allowed for sales under execution. If the defendant be acquitted no property seized as contraband in connection with the arrest of the defendant shall be ordered returned or restored unless the person from whose possession same was taken proves that he was in lawful possession of said property. If the owners of any contraband seized under this Act cannot be located within ninety days, and during that time shall fail to appear and claim such contraband, or if such owner appears and agrees, title to such contraband shall immediately vest in the State Alcoholic Control Board.

§ 53½. *Penalty for Drinking or Being Drunk in a Public Place.* Any person who shall in any public place or in or upon any passenger coach, street car, or in any other vehicle commonly used for the transportation of passengers, or in or about any depot, platform, waiting station or room, drink any intoxicating liquor of any kind, or if any person shall be drunk or intoxicated or under the influence of intoxicants in any public or private road or in any passenger coach, street car, or other public place or building or at any public gathering, he shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars nor more than one hundred dollars or by imprisonment by not less than five days nor more than thirty days, or by both such fine and imprisonment.



## ARTICLE II

PROHIBITIONS, RESTRICTIONS AND REGULATIONS RELATING  
TO LICENSEES GENERALLY

§ 54. *Persons Who May Not Become Licensees.* No person shall become a licensee under this Act, or manufacture, sell, transport or otherwise traffic in any alcoholic beverage, as that term is defined in this Act, who:

(1) Has been convicted of a felony or of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors.

(2) Is under the age of twenty-one years.

(3) Is not a citizen of the United States and has not had an actual, bona fide residence in this Commonwealth for at least one year next before the date on which his application for a license is made, provided this subsection shall not apply to applicants for manufacturer's licenses, or to applicants which are corporations authorized to do business in Kentucky.

(4) Is a co-partnership or corporation, unless each member of the partnership or each of the principal officers, managers and employees and each of the directors of the corporation has not been convicted of a felony or of any misdemeanor or offense directly attributable to the use of intoxicating liquors, is twenty-one years of age or more, and is a citizen of the United States.

(5) Has had any license issued under this Act or any license issued under any Act or ordinance relating to the regulation of the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any of the provisions of this Act or of any such other act or ordinance, until the expiration of two years from the date of such revocation or conviction.

(6) Is a co-partnership or corporation, if any member of such partnership or any of the principal officers or any of the directors of such corporation has had any license issued under this Act or any license issued under any act or ordi-



nance relating to the regulation of the manufacture, sale and transportation of alcoholic beverages revoked for cause or has been convicted of a violation of any of the provisions of this Act or of any such other act or ordinance, until the expiration of two years from the date of such revocation or conviction.

§ 55. *Persons Who May Not Be Employed by Licensees.* No person holding any license under this Act shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

(1) Has been convicted of a felony or of any misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors.

(2) Is under the age of twenty-one years.

(3) Is not a citizen of the United States or has not had had an actual, bona fide residence in this Commonwealth for at least one year next before the date of his employment.

(4) Within two years prior to the date of his employment, has had any license issued under this Act or under any other act or ordinance relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause, or has been convicted of a violation of any of the provisions of this Act or of any other such act or ordinance. Violation of this section shall subject both employer and employee to penalties provided in this Act, and shall be cause for revocation of license.

§ 55½. *Sales for Cash Only.* No manufacturer, wholesaler or distributor shall sell any alcoholic beverages to any person for any consideration except cash paid at or before the time of delivery; provided sales by wholesalers or distributors to licensees which are private clubs or voluntary associations shall be exempt from the provisions of this section.

§ 56. *Prohibited Purchases and Sales by Licensees.* No holder of a license issued under this Act shall purchase or agree to purchase any alcoholic beverage from any person

within or without this Commonwealth who is not duly licensed to sell such beverages to the particular purchaser at the time of such agreement to sell, nor give any order for any alcoholic beverages to any individual who is not a holder of a special agent's or solicitor's license if such license is required; and no holder of a license issued under this Act shall sell or agree to sell any alcoholic beverage to any person within or without this Commonwealth who is not duly licensed or otherwise legally authorized to buy and receive such beverages at the time of such agreement to sell, nor secure any order for the sale of any alcoholic beverages through any individual who is not the holder of a special agent's or solicitor's license if such license is required.

§ 57. *Peddling Prohibited.* No holder of any license issued under section 18 of this Act nor any of his agents, servants or employees shall peddle any alcoholic beverages from house to house, by means of a truck or otherwise, where the sale is consummated and delivery made concurrently at the residence or place of business of the consumer. This section shall not be construed so as to prohibit the delivery of alcoholic beverages in conformity with section 27 of this Act, pursuant to sales made at the place of business of such licensee. Deliveries shall not be made by holders of special agent's or solicitor's licenses.

§ 58. *Sales and Solicitations at Customer's Home or Place of Business Prohibited.* No holder of a license issued under this Act shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any alcoholic beverages at the residence or place of business of such consumer, nor shall any such licensee receive or accept any such order which shall have been solicited or received at the residence or place of business of such consumer. This section shall not be construed so as to prohibit the solicitation by a distiller, rectifier, brewer, or vintner of an order from any licensed wholesaler or distributor at the licensed premises of such wholesaler or distributor nor to prohibit the solicitation

by a licensed wholesaler or distributor of an order from any licensed retailer at the licensed premises.

§ 59. *Transfer or Assignment of License Prohibited; Every Dining Car Considered Premises Separately to be Licensed.* A license issued under this Act to any person for any licensed premises shall not be transferrable or assignable to any other person or to any other premises or to any other part of the building containing the licensed premises, except in the sound discretion of the Administrator who issued the license. It shall be available only to the person therein specified and only for the premises therein specified and to no other, unless a transfer or assignment be authorized in the exercise of his sound discretion by said Administrator under the provisions of section 50 or 51 of this Act. For the purpose of this section each railroad dining car shall be deemed premises separately to be licensed.

§ 60. *Pledging of Licenses Prohibited.* No license issued under this Act shall be pledged, hypothecated or deposited as collateral security on any loan or upon any other condition; any any such pledge, hypothecation or deposit and any contract providing therefor shall be void.

§ 61. *Sales to Any Person Not Providing for His Family Prohibited.* No licensee under this Act shall sell or agree to sell any alcoholic beverages or cause or permit any alcoholic beverages to be sold to any person who has been reported to such licensee by any Court or by any officer acting at its direction as having failed to make proper provision for his family.

§ 62. *Payment for Another's License Prohibited.* The license tax for every license issued under this Act shall be payable by the person making application for such license and to whom it is issued, and no other person shall pay for any license issued under this Act. In addition to all other penalties provided in this Act, a violation of this section shall authorize and require the revocation of the license the tax for which was paid by another and also the revocation of the

license, if any, of the person so paying for the license of another.

§ 63. *Advertising and Window Displays Prohibited Except in Conformity with the Rules of the Board.* Except as it may be done in conformity with the provisions of such reasonable rules and regulations relative to advertising as may be adopted by the State Alcoholic Beverage Control Board, no holder of a license issued under this Act shall advertise or cause or permit to be advertised in any manner any product which he is licensed to manufacture to sell, whether any such advertisement advertises any particular brand or not, and whether or not it quotes prices; nor shall any holder of a license issued under this Act have or exhibit in a window any sort of display of alcoholic beverages, except in conformity with such reasonable rules and regulations relative to window displays as may be adopted by said Board.

§ 64. *Holding Federal Without State License Raises Prima Facie Presumption of Doing Business Illegally.* The holding of any Federal permit to traffic in alcoholic beverages without the corresponding requisite state and local licenses shall in all cases raise a prima facie presumption that the holder of such Federal permit is trafficking in alcoholic beverages in violation of the terms of this Act.

§ 65. *Presence of Alcoholic Beverage on Certain Premises Makes Out Prima Facie Case of Intent to Sell.* Whenever any alcoholic beverages, in whatever quantity shall be found on any business premises within this Commonwealth, a prima facie presumption shall thereupon arise that said alcoholic beverage was upon such premises for the purpose of sale.

§ 66. *Prescribed Books and Records to be Kept.* Each licensee under this Act shall keep and maintain upon the licensed premises adequate books and records of all transactions involved in the manufacture or sale of alcoholic beverages in the manner required by the reasonable rules and regulations of the State Alcoholic Beverage Control Board. Such



books and records shall be available at all reasonable times for inspection by any authorized representative of the Department of Revenue.

### ARTICLE III

#### PROHIBITIONS, RESTRICTIONS AND REGULATIONS RELATING TO ALL MANUFACTURERS AND WHOLESALERS

§ 67. *Prohibitions, Restrictions and Regulations Particularly Applicable to All Distillers, Rectifiers, Vintners and Wholesalers.* No person holding a distiller's or rectifier's or vintner's or wholesaler's license issued under this Act, and no employee, servant or agent of such licensee, shall:

(1) Be interested directly or indirectly in any premises where any distilled spirits or wine are sold at retail; or in any business devoted wholly or partially to the sale of distilled spirits or wine at retail, by stock ownership, interlocking directorates, mortgage or lien on any personal or real property, or by any other means.

(2) Make or cause to be made any loan to any person engaged in the manufacture or sale of any distilled spirits or wine at wholesale or retail.

(3) Make any gift or render any kind of service whatsoever, directly or indirectly, to any person licensed under section 18 of this Act which in the sound judgment of the Alcoholic Beverage Board may tend to influence such licensee to purchase the product of such distiller, rectifier, vintner or wholesaler.

(4) Enter into a contract with any holder of a retail license issued under this Act whereby such licensee agrees to confine his sales to distilled spirits or wine manufactured or sold by one or more such distillers, rectifiers, vintners or wholesalers. Any such contract shall be void.

§ 68. *Brand Lists to be Filed With Board.* Each distiller, rectifier, vintner and wholesaler shall file with the State Alcoholic Beverage Board within ten days after the granting of a license a verified list of the various brands of alcoholic



beverages manufactured, sold, or distributed by him. No new brands shall be manufactured, offered for sale or distributed until such licensee shall have filed with said Board a supplemental list containing the names of such additional brands.

§ 69. *No Signs To Be Furnished by Distillers, Rectifiers, Vintners or Wholesalers; Exception.* No distiller, rectifier, vintner or wholesaler shall furnish or cause to be furnished to any licensee any exterior or interior sign, printed, painted, electric or otherwise, except as authorized by the rules and regulations of the State Alcoholic Beverage Control Board.

#### ARTICLE IV

##### PROHIBITIONS, RESTRICTIONS AND REGULATIONS RELATING ONLY TO WHOLESALERS

§ 70. *No Distilled Spirits or Wine to be Purchased, Imported, Kept or Sold Save in Sealed Containers Properly Stamped and Labeled and in Unbroken Cases.* No wholesaler licensed under this Act shall purchase, import or keep upon the licensed premises or sell any distilled spirits or wine in any cask, barrel, keg, hogshead or other container except in the original sealed package containing quantities of not less than eight ounces each of distilled spirits or six ounces of wine and not to exceed one quart each of distilled spirits or fifty gallons each of wine as received from the distiller, rectifier, or vintner, or wholesaler, as the case may be. Such containers shall at all times have affixed thereto such labels as may be required by the rules and regulations of the State Alcoholic Beverage Board, together with all necessary Federal revenue and State excise tax stamps as required by law. No wholesaler shall sell any distilled spirits or wine except in cases of containers of uniform size and of the sizes above specified.

§ 71. *Wholesaler to Have License Number of Window or Building.* Each wholesaler shall have painted on the front window of the licensed premises, or, if there be no window, on a sign affixed to the front of the building containing said licensed premises, the name of the licensee together with the

inscription: "Kentucky Wholesaler's Liquor License No. ...." in uniform letters not less than three and a half inches in height.

#### ARTICLE V

#### PROHIBITIONS, RESTRICTIONS AND REGULATIONS RELATING TO ALL SALES AT RETAIL

§ 72. *No retail License For Premises Save Those of Which Applicant is Owner or Lessee.* No license for the sale of alcoholic beverages at retail shall be granted for any premises unless the applicant for the license shall be the owner thereof, or shall be in possession said premises under a written lease for a term of not less than the license period.

§ 73. *No Retail Sales Save From Premises Located on Street Level, etc.; Exception.* No premises shall be licensed for the sale of alcoholic beverages at retail except where the licensed premises and the entrance thereto are on the street level, and located in a business center or on a main thoroughfare; provided, however, that this provision shall not apply to a hotel, club or restaurant, where such hotel, club or restaurant shall have been bona fide in business as a licensee in premises located above or below the ground floor for at least one year next preceding the date when its application for a license under this Act is made, in which latter class of cases the premises may or may not be licensed as the Administrator to whom the application is made may, in the exercise of his sound discretion, decide.

§ 74. *All Retail Premises Must Provide A Clear View From The Entrance.* The entrance doors of any premises for which a retail license has been issued under this Act shall be of clear glass and the premises shall be so erected and maintained as to furnish a clear view of the entire premises from the sidewalk, or, if the premises be not on the street level, from the entrance. There shall be no partition, box, stall, screen, curtain or other device to obstruct the view or the general obstruction of persons; provided, however, that the forty-eight inches from the floor shall not be construed as

obstructing the view or the general observation of persons; and provided further that any license to any bona fide hotel or club shall entitle the holder of such license to serve alcoholic beverages as such holder is licensed to sell in a separate room or rooms at banquets or dinners or where meals are served.

§ 75. *No Retailing Near School, Hospital, Church or Other Place of Worship; Exception.* No license for the sale of alcoholic beverages at retail shall be granted for any premises which shall be located on the same street or avenue as, and within two hundred feet of a building occupied exclusively as a school, hospital, church or other place of worship without the written permission of the governing authority of such church, school or hospital, except that a hotel or private club which has been bona fide in business as a licensee at that location for not less than one year next preceding the passage of this Act or the establishment of said church, school or hospital, may be granted a license by the Administrator, in the exercise of his sound discretion, even though within less than two hundred feet of a building occupied exclusively as a school, hospital, church, or other place of worship. The measurement called for in this section shall be taken on the street or avenue on which the licensed premises are located in a straight line from the nearest property line of the real estate on which is located the building used for such school, hospital, church or other place of worship to the nearest property line of the real estate on which is located the building for which a license is sought.

§ 76. *Advertising Brands By Retailers Prohibited.* No sign of any kind, printed, painted or electric, advertising any brand of alcoholic beverages shall be permitted on the exterior or interior of any premises licensed for the sale of alcoholic beverages at retail.

§ 77. *Closing Hours and Times.* No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open

for any purpose on Sunday or on any other day between midnight and eight o'clock a. m., or at any time during the twenty-four hours of an election day, provided, that if a licensee provides a separate department within his licensed premises, capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section.

§ 78. *Gambling and Disorderly Conduct Forbidden on Retail Premises.* No person licensed to sell alcoholic beverages at retail shall cause, suffer or permit any gambling device on the licensed premises, or cause, suffer or permit such premises to be disorderly.

§ 79. *Sales at Retail to Specified Persons Prohibited.* No person licensed to sell alcoholic beverages at retail shall sell, give away or deliver any alcoholic beverages, or procure or permit any alcoholic beverages to be sold, given away or delivered to:

(1) A minor.

(2) An intoxicated person or a person actually or apparently under the influence of liquor.

(3) An habitual drunkard. Any person convicted of drunkenness as many as three times within the most recent twelve months period shall be deemed to be an habitual drunkard.

(4) Any one known to the seller to have been convicted of a felony or convicted of any misdemeanor or offense attributable directly or indirectly to the use of intoxicating liquors.

§ 80. *Credit Transactions By Retailers Prohibited; Exceptions.* No holder of a license for the sale of distilled spirits and wine at retail shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any distilled spirits or wine on credit; provided, however, that if the holder of such license is a bona fide private club it may sell on reasonable credit to its members and provided further



that if the holder of such a license be a bona fide hotel it may sell on reasonable credit to its registered guests.

§ 81. *“Treating” Prohibited.* There shall be no “treating” of anyone at any time by any holder of any retail license issued under this Act. “Treating”, as that term is used in this section, shall mean the giving away of any alcoholic beverage in any quantity, or delivering same in any quantity for other than a full monetary consideration.

## ARTICLE VI

### PROHIBITIONS, RESTRICTIONS AND REGULATIONS RELATING ONLY TO RETAIL PACKAGE SALES

§ 82. *Distilled Spirits and Wine to be Purchased, Kept or Sold in Sealed Containers of Specified Sizes, Properly Stamped and Labeled; Such Containers Not to be Opened on Premises.* No holder of a license issued under this Act for the sale at retail of distilled spirits and wine for consumption off the premises shall purchase, keep upon the licensed premises, or sell any such beverages in any cask, barrel, keg, hogshead or other container except in the original sealed package containing quantities of not less than eight ounces of distilled spirits of six ounces of wine and not to exceed one quart each of liquor or fifty gallons each of wine. Each container shall have affixed thereto such labels as may be required by the rules and regulations of the State Alcoholic Beverage Control Board, together with all necessary Federal revenue and State excise tax stamps as required by law. No such container shall be opened nor its contents consumed on the licensed premises.

§ 83. *License Number to be on Window or Building; Exception.* Each person holding a license to sell distilled spirits or wine at retail for consumption off the premises shall have printed on the front window of the licensed premises the name of the licensee together with the inscription: “Kentucky State Retail Package Liquor No. ....” in uniform letters not less than three and a half inches in height.



§ 84. *No Sales in Excess of Specified Quantity.* No holder of a license for the sale of distilled spirits and wine at retail for consumption off the premises shall sell or deliver to any person any distilled spirits or wine in excess of three gallons at one and the same time.

§ 85. *No Phone or Mail Orders or Delivery; Exception.* No holder of a license issued under this Act for the sale of distilled spirits or wine at retail for consumption off the premises shall accept orders for such beverages by telephone or by mail, nor shall he deliver or advertise the delivery of such beverages.

#### ARTICLE VII

##### PROHIBITIONS, RESTRICTIONS AND REGULATIONS RELATING ONLY TO RETAIL DRINK LICENSEES

§ 86. *Distilled Spirits or Wine to be Kept Only in Original Containers Properly Stamped and Labeled.* No holder of a license for the sale of distilled spirits and wine at retail for consumption on the premises shall keep upon the licensed premises any such beverages in any cask, barrel, keg, hogshead or other container except in the original package containing quantities not to exceed one quart each of liquor or fifty gallons each of wine, and containing not less than twenty ounces each, as received from the wholesaler. Each such container shall have affixed thereto such labels as may be required by the rules and regulations of the State Alcoholic Beverage Control Board, together with all necessary Federal revenue and State excise stamps as required by law.

§ 87. *Distilled Spirits or Wine Not to be Served Except at Tables.* No distilled spirits or wine shall be sold, given away or served on premises licensed under this Act for the sale of alcoholic beverages at retail for consumption on the premises, except at tables where food may be served; provided, however, that such beverages may be sold or served except to females by a bona fide hotel or club licensed under this Act at a bar, counter or contrivance which is incidental

to the conduct of the business of the licensed premises and is not of such a nature as to constitute a predominant part of the equipment therein. Only one such bar, counter or contrivance shall be permitted in any licensed hotel or club, except that, in addition to the one bar herein provided for, such licensed hotel or club may have any necessary service bars, which, however, shall not be in any room in which the members or guests or patrons of such hotel or club are invited or permitted to come. No distilled spirits or wine shall be served to any one at such service bars. Nothing contained in this section shall be construed as meaning that food must be purchased or consumed with alcoholic beverages.

§ 88. *Female Employees Prohibited.* No holder of a license for the sale of Alcoholic Beverages at retail for consumption on the premises shall employ any female as a bar maid or for any duties with respect to the sale of alcoholic beverages except to wait upon tables, or serve as cashier or usher.

#### ARTICLE VIII

##### PROHIBITIONS, RESTRICTIONS AND REGULATIONS RELATING ONLY TO TRANSPORTERS

§ 89. *Transportation by Non-Licensee Prohibited; Exception.* No person except a railroad company or railway express company shall transport or cause to be transported any distilled spirits or wine, otherwise than as provided in this Act except such beverages may be transported by the holder of any license authorized by section 18 of this Act, from and to express or freight depots to and from the premises covered by the license of the person so transporting distilled spirits or wine.

#### ARTICLE IX

##### PROHIBITIONS, RESTRICTIONS AND REGULATIONS RELATING ONLY TO SPECIAL LICENSES

§ 90. *Prohibitions, Restrictions and Regulations Relating only to Special Licensees to be such as are Determined Upon*

*by the Board.* The prohibitions, restrictions and regulations relating to special licensees shall be those which the State Alcoholic Beverage Control Board may, by its rules and regulations, and in the exercise of its sound discretion, prescribe.

§ 91. *No Solicitation Without License.* No individual shall solicit orders for or offer for sale any distilled spirits or wine, irrespective of whether such sale is to be made within or without this Commonwealth, unless such person shall have a special agent's or solicitor's license.

§ 92. *Sale of Industrial or Non-Industrial Alcohol.* Any person who shall knowingly sell any alcoholic product intended for non-beverage purposes under sections 30(2) or 30(3) of this Act, under circumstances from which he might reasonably have deduced the intention of the purchaser to use them for beverage purposes, shall be subject to the penalties provided for in this Act.

§ 93. *Storage by Non-Licensee Prohibited.* No distilled spirits or wine in excess of three gallons shall be stored or kept except upon the licensed premises of a person who is the holder of a license provided for in section 18 or 29 of this Act.

## TITLE V

### PENALTIES

#### ARTICLE I

#### PENALTIES

§ 94. *Penalties for Trafficking in Alcoholic Beverages Without a License.* Any person who, by himself or acting through another, directly or indirectly, shall violate the provisions of section 52 of this Act, shall be deemed guilty of a crime and, upon conviction, shall be punished by a fine of not less than \$100.00 and not to exceed \$5,000 or by imprisonment not to exceed five years, or by both such fine and imprisonment. For a second and each subsequent offense the offender,

upon conviction, may be fined in a sum not to exceed \$10,000 or imprisoned for a term not to exceed ten years, or both so fined and imprisoned; provided, that in case the offender be a corporation, joint stock company, association or fiduciary, then the principal officer and/or the officer or officers responsible for such violation may be punished by such imprisonment.

§ 95. *Penalties for Violations of Other Sections of this Act.* Any person who, by himself or acting through another, directly or indirectly, shall violate the provisions of any section of this Act other than section 52 or sections 104 to 117 inclusive, for which a specific penalty is not provided, shall, for the first offense be deemed guilty of a misdemeanor and, upon conviction thereof, be punished by a fine not to exceed \$500 or by imprisonment in the County jail or workhouse for a term not to exceed six months, or by both such fine and imprisonment. For a second and each subsequent violation of the provision of any section of this Act other than section 52, whether the section violated be that for which the first conviction was had or not, the offender, upon conviction, shall be punished by a fine not to exceed \$1,000 or by imprisonment for a term not to exceed one year, or by both such fine and imprisonment. The penalties provided for in this section shall be in addition to the revocation of the offender's license; provided, that in case the offender be a corporation, joint stock company, association or fiduciary, then the principal officer or officers responsible for such violation may be punished by such imprisonment. Nothing in this section shall be construed as conflicting with the penal provisions of section 10 of this Act.

TITLE VI  
MALT BEVERAGE TRAFFIC

ARTICLE I

LICENSES AND TAXES

§ 96. *Expiration Date of Malt Beverage Licenses; License Taxes.* All licenses provided for in this section shall expire on June 30th of each year. The following kinds of licenses may be issued by the Malt Beverage Administrator.

(1) Brewer's License, the fee for which shall be \$1,000 per annum.

(2) Distributor's License, the fee for which shall be \$100 per annum.

(3) Beer Retailer's License, the fee for which shall be \$25 per annum.

(4) Dining Car License, the fee for which shall be \$25 per annum.

(5) Beer Transporter's License, the fee for which shall be \$5 per annum.

(6) Special Temporary License, the fee for which shall be twice the proportional part of the taxes for a full year's license, counting any part of a month a full month.

§ 97. *Business Authorized by Brewer's License.* A brewer's license shall authorize the holder thereof, at the premises specifically designated in the license, to engage in the business of a brewer as that term is defined in this Act, and to transport for himself only any malt beverage which he is authorized under his license to manufacture or sell, provided he so transports such beverages in accordance with the requirements provided for distillers in section 21 of this Act. The holder of a brewer's license shall be authorized to sell at wholesale or retail, from the licensed premises only, and without any additional license, any malt beverage produced under his license.

§ 98. *Business Authorized by a Distributor's License.*



A distributor's license shall authorize the holder to purchase, import or store malt beverages and to sell same, from the licensed premises only, to other licensed distributors, to licensed retailers or consumers for personal use and not for resale. A distributor may transport malt beverages subject to the same requirement provided for distillers in section 21 of this Act. If any brewer or distributor maintains more than one place of business or warehouse, agent, distributor, broker or jobber from which orders are received or beverages are distributed, nothing herein contained shall prevent the collection of an additional \$100 distributor's license tax for each separate place of business, warehouse, agent, distributor, broker or jobber.

§ 99. *Business Authorized under Beer Retailer's License.* A beer retailer's license shall authorize the holder to sell malt beverages at retail from the licensed premises only and to purchase malt beverages only from a brewer or distributor licensed under this Act.

§ 100. *Business Authorized Under Dining Car License.* A dining car license may be issued to any Railroad or Pullman Car company which shall authorize the holder to exercise only on a particular dining car designated in the license, the privileges of a beer retailer, subject to the same restrictions as provided in the case of a beer retailer.

§ 101. *Business Authorized by Beer Transporter's License.* A beer transporter's license shall authorize the holder to transport malt beverages for hire to or from the licensed premises of any licensee under this Act, provided both the consignor and consignee in each case are authorized by the law of the states of their residence, respectively, to sell, purchase, ship or receive the malt beverages, as the case may be.

§ 102. *Business Authorized by Special Temporary License.* The Malt Beverage Administrator is authorized and

empowered to issue a special temporary license for the sale of malt beverages at retail for consumption on the premises of any regularly organized fair or racing association for a particular fair, race or race meeting conducted by such association, or for special temporary occasions such as picnics, bazaars, carnivals and the like. The issuance or refusal of such special license and the exercise of the privilege granted thereby shall be subject to such rules and regulations as said Department may in each particular case deem necessary.

§ 103. *Applications for Malt Beverage License; Issuance of Same.* Applications for any license provided for in section 96 of this Act shall be made to the Administrator of the Malt Beverage Unit, shall be in writing on forms furnished by the Department, and verified; and shall set forth in detail such information concerning the applicant and the premises for which the license is sought as this Act or the State Board by regulation shall require. Said application shall be accompanied by a certified check, or cash, or a postal or express money order for the amount of money required by this Act for a license of the kind applied for. If the administrator shall grant the application he shall issue the proper license in such form as shall be determined by the State Board by Regulation, subject to the provisions of section 38 of this Act.

§ 104. *Posting of Licenses.* Before commencing or doing any business for the time for which a license has been granted said license shall be posted and at all times displayed in a conspicuous place in the room or principal room where such business is carried on, so that all persons visiting such place may readily see the license. It shall be unlawful for any person holding a license to post such license or permit it to be posted, upon premises other than the premises licensed, or upon premises where traffic in malt beverages is being carried on by any person other than the licensee, or knowingly to deface, destroy or alter any such license in any

respect. Whenever a license shall be lost or destroyed without fault on the part of the licensee or his agents or employees a duplicate license in lieu thereof shall be issued upon proof of loss satisfactory to the Administrator, and upon the payment of a fee of \$1.00 therefor.

## ARTICLE II

### PROHIBITIONS, RESTRICTIONS AND REGULATIONS

§ 105. *Premiums Unlawful.* It shall be unlawful for any person holding a license to sell malt beverages to offer or give anything tangible of value as a premium for the return of caps, stoppers, corks, stamps, wrappers, coupons, or labels taken from any bottle, case, barrel, or package containing such malt beverages or to offer or give anything of value as a premium, gift, or prize to induce the purchase of such malt or brewed beverage or for any other purpose in connection with the sale of such malt beverages; provided however, that this section shall not apply to the return of moneys specifically deposited for the return of the original containers to the owners thereof.

§ 106. *Hours of Doing Business.* It shall be unlawful for any brewer or distributor to deliver any malt beverages between the hours of 7:00 P. M. and 6:00 A. M., except on Saturdays when the hours of such deliveries shall be between 6:00 A. M. and midnight. It shall be unlawful for beer retailer to sell, give away or deliver any malt beverages between the hours of midnight and 6:00 A. M. or on Sunday between midnight and noon.

§ 107. *Advertising in Certain Places Prohibited.* It shall be unlawful for any licensee to advertise any malt beverage by trade name, trade mark or in any manner within one hundred (100) feet of any property line of any school or church, and such distance shall be by straight line, but this provision shall not apply to advertisements placed on the establishment of manufacturers or brewers or distributors

in operation prior to this Act, nor to signs in position at the time of the effective date of this Act.

§ 108. *Signs on Premises.* It shall be unlawful for any retailer to advertise or permit to be advertised or have any display on the outside of any licensed premises at any distance whatever beyond any wall of said premises any malt beverage by trade name, trade mark or otherwise, and no such advertising or display shall be permitted by him within such premises, provided, however, that nothing herein contained in this section shall prevent a licensee from painting any sign on any wall in his premises, provided that said sign does not contain a trade mark or trade name of a malt beverage

§ 109. *Unlawful for Label to Refer to Alcoholic Strength; Exceptions.* It shall be unlawful to issue, publish or post, or cause to be issued, published or posted by any licensee any advertisement of malt beverage intended for sale in Kentucky including a label which shall refer in any manner to the alcoholic strength of the malt beverage manufactured, sold or distributed by such licensee or to use in any advertisement or label such words or numerals likely to be considered a statement of alcoholic content unless adequately explained or for any licensee to purchase, transport, sell or distribute any malt beverage advertised or labeled contrary to the provisions of this clause.

§ 110. *Unlawful to Sell to Persons Illegally Selling Malt Beverages.* It shall be unlawful for any licensee to sell any malt beverage to any person engaged in the business of illegally selling malt beverages, or to any vendor of malt beverages unless such vendor holds a license in accordance with this Act.

§ 111. *Exclusive Outlets.* It shall be unlawful for any person engaged in business as a manufacturer or brewer, distributor or shipper of malt beverages directly or indirectly or through an affiliate or subsidiary to require by agreement or otherwise, that any retailer engaged in the sale of malt



beverages, purchase any such products from such person to the exclusion in whole or in part of malt beverages sold or offered for sale by other persons.

§ 112. *Tied Houses.* It shall be unlawful for any manufacturer, brewer, or distributor to induce through any of the following means any retailer engaged in the sale of malt beverages, to purchase any malt beverages from such person to the exclusion in whole or in part of malt beverages sold or offered for sale by other persons, if such person engages in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in commerce in any such products, if the direct effect of such inducement is to prevent, deter, hinder, or restrain other persons from selling or offering for sale any such products to such retailer (a) by acquiring or holding (after the expiration of any existing license) any interest in any license with respect to the premises of the retailer; or (b) by acquiring any interest in real or personal property owned, occupied, or used by the retailer in the conduct of his business; or (c) by furnishing, giving, renting, lending, or selling to the retailer, any equipment, fixtures, signs, supplies, money, services, or other things of value, except as the Malt Beverage Administrator, having due regard for the public health, the quantity and value of the articles involved, the prevention of monopoly and the practice of deception, may by regulation otherwise prescribe, or (d) by paying or crediting the retailer for any advertising, display, or distribution service subject to such exceptions as the Director may by regulation prescribe; or (e) by guaranteeing any loan or the repayment of any financial obligation of the retailer; or (f) by requiring the retailer to take and dispose of a certain quota of any of such products.

§ 113. *Commercial Bribery Unlawful.* It shall be unlawful for any manufacturer or brewer to induce through any of the following means, any retailer engaged in the sale of malt beverages, to purchase any such products from such person to the exclusion in whole or in part of malt beverages



sold or offered for sale by other persons, if such person engaged in the practice of using such means, or any of them, to such an extent as substantially to restrain or prevent transactions in any such products, if the direct effect of such inducement is to prevent, deter hinder, or restrict other persons from selling or offering for sale any such products to such retailer; (a) by commercial bribery; (b) by offering or giving any bonus, premium, or compensation to any officer, or employee, or representative of such retailer; or (c) by making or allowing any rebates or refunds to any officer, employee, or representative of such retailer.

§ 114. *Labeling.* The Department may in its discretion adopt any or all of the regulations of the Federal Alcohol Administration relating to labeling and advertising as the Federal Alcohol Administration may issue and promulgate under and by virtue of an Act of Congress approved August 29th, 1935. Provided, however, that the adoption of the regulations above mentioned shall not become effective as to any manufacturer or distributor having labels on hand that would be outlawed by such adoption until a period of 90 days from the date of such adoption.

§ 115. *Unlawful to Change Character of Malt Beverages After Selling in Original Containers.* It shall be unlawful to fortify, adulterate or contaminate malt beverages. It shall be unlawful to fortify adulterate, contaminate, or in any wise change the character or purity of the malt beverages from that as originally marketed by the manufacturer, or to sell, deliver or transport such beverages except in the original containers.

§ 116. *Certain Financial Interest by Manufacturers or Distributors.* Except as hereinafter provided no manufacturer or distributor shall in any wise be interested either directly or indirectly in the ownership or leasehold of any property or in any mortgage (lien) against the same for which a retail license is granted; nor shall a manufacturer or

distributor either directly or indirectly lend any moneys, credit or the equivalent thereto to any retailer in equipping, fitting out or maintaining and conducting either in whole or in part an establishment or business (where malt beverages are licensed for sale) operated under a retail license. Provided, however, that this section shall not apply to the interest of a licensee in any mortgage or other lien taken by him to secure the payment in whole or in part of any indebtedness due him by any other licensee and incurred prior to the effective date of this Act.

The provisions of this Article shall not prohibit a distributor from owning stock in any brewery.

§ 117. *Manufacturers and Distributors to Make Truthful Invoices to Retailers and to Make No Allowances or Rebates Therefrom.* (a) It shall be unlawful for any manufacturer or distributor, their agents or employees, to make any sale or delivery of any malt beverage without a written invoice made concurrently with such sale or delivery, showing prices and conditions upon which such sale or delivery is made; or to make any invoice which falsely indicates prices and terms of any sale, or to insert in any invoice any statements which make the invoice a false record, wholly or in part, of the transaction involved or represented on the face thereof, or to withhold from any invoice any statement which properly should be included therein so that in the absence of such statements the invoice does not truly reflect the transaction involved.

(b) It shall further be unlawful for any manufacturer brewer or distributor to make, directly or indirectly through any agent or employee, and for the retailer to receive any payment of any allowance, rebate, refund, concession or discount, whether in the form of money or otherwise, not conforming with the prices and conditions of sale as shown in the invoice.

§ 118. Any person who shall violate any of the provisions of sections 104 to 117, inclusive of this Act, shall be

deemed guilty of a misdemeanor and upon conviction he shall be punished by a fine of not less than \$50.00 nor more than \$500.00 for each offense, and said person's license shall be subject to revocation.

## TITLE VII

### MISCELLANEOUS PROVISIONS

§ 119. *Transfer of Functions and Resources of Division of Alcoholic Control From the Department of Business Regulation to the Department of Revenue.* The functions of the Division of Alcoholic Control of the Department of Business Regulation are hereby transferred to the Department of Revenue. All books, papers, records, files, office equipment, other property and pending business of the said division are likewise transferred to and vested in the Department of Revenue. All employees whose functions are by this Act transferred to and vested in the Department of Revenue are hereby transferred with their functions, to the said department. The remainder of the appropriation made for the operation of the Division of Alcoholic Control is hereby transferred to and vested in the Department of Revenue to be used for the administration of this Act. In connection with the transfer of the functions of the Division of Alcoholic Control of the Department of Business Regulation to the Department of Revenue, the said Department of Revenue shall be in every way the successor with respect to such functions, and to every act done in the exercise of such functions by or under the authority of the said division. In every instance in which the said division is referred to or designated in any law (not hereby repealed), contract or document, such reference or designation shall be deemed to refer to the Department of Revenue.

§ 120. *Effect of Partial Invalidity.* The titles, articles, sections, sub-sections and all provisions of this Act are severable, and if any of its titles, articles, sections, sub-sections, provisions or the application thereof shall be held unconstitu-

tional, such title, article, section, sub-section, provision or application thereof held to be invalid may be rejected without affecting the remainder of the Act, and the decisions of the courts shall not affect or impair the remaining titles, articles, sections, sub-sections, provisions of this Act or the application thereof. It is hereby declared to be the Legislative intent that this Act would have been adopted had not such unconstitutional title, article, section, sub-section or provision been included therein. It is hereby further declared to be the Legislature's intention in enacting this Act that each title, article, section, sub-section and provision would have been enacted separately, except that if any provision of section 16 of this Act is held to be invalid that entire section shall be construed to be invalid.

§ 121. *Construction or Interpretation.* Irrespective of Title or Article headings the sections of this Act listed below shall be construed to apply to the traffic in both malt beverages and distilled spirits and wine where the context permits such application; sections 1 to 17 inclusive, 19, 20, 34, 36, 38, 39, 41 to 56 inclusive, 58 to 66 inclusive, 72 to 76 inclusive, 78, 79, 81, 88, 95, 119 to 121 inclusive. The following sections shall be construed to apply to the traffic in distilled spirits and wine only; 18, 21 to 33 inclusive, 35, 37, 40, 57, 67 to 71 inclusive, 77, 80, 82 to 87 inclusive, 89 to 94 inclusive. Sections 96 to 118 inclusive, shall be construed to apply to the traffic in malt beverages only.

§ 122. *Laws Repealed.* Chapter 146, Acts of the General Assembly of 1934, approved March 17, 1934, being sections 2554b-1 to 2554b-96, inclusive, excepting sections 2554b-67, 2554b-73, of Carroll's Kentucky Statutes, 1936 edition; Chapter VI of the Acts of the General Assembly of 1917, being section 4214c-1 of Carroll's Kentucky Statutes, 1936 edition; and Chapter V of the Acts of the General Assembly at the Special Session of 1933, being sections 4214d-1 to 4214d-14 of Carroll's Kentucky Statutes, 1936 edition, are hereby repealed and all other laws or parts of laws in con-



flict with the provisions of this Act are hereby repealed to the extent of such conflict.

§ 123. *Declaring an Emergency.* The present uncertainty with respect to the law governing the sale, distribution and use of alcoholic beverages constitutes an emergency, and this Act shall become a law and be effective on its passage and approval by the Governor. Provided, however, that section 70 of this Act shall become effective as provided by the Constitution of Kentucky in the absence of a declaration of emergency; and provided further, that nothing in this Act shall be construed to require any licensee engaged in traffic in alcoholic beverages to pay any additional license tax, or procure any license hereunder, prior to the procurement of the license for the fiscal year 1938-39.

To Committee on Regulation of Intoxicating Liquors.

By Senator Mayer.

S. B. 7. An Act providing for monthly advancements to the County Sheriffs in counties containing a population of 75,000 or more; providing for the manner of paying said advancements and accounting for same; and declaring an emergency to exist.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1729a. In Counties containing a population of 75,000 or more the County Sheriff shall be entitled to receive an advancement of not in excess of \$8,000 per month to defray necessary official expenses and to apply to the payment of the salaries of himself and his deputies and assistants, and the Auditor of Public Accounts shall on the first of each calendar month draw his warrant on the Treasurer in favor of such County Sheriff for such advancement. At the end of each



calendar year the sum of such advancements shall be deducted from the part of the total of fees and commission paid into the State Treasury by such County Sheriffs, pursuant to Section 106 of the Constitution of the Commonwealth of Kentucky which is available for use for the payment of the salaries of the Sheriff, his deputies and assistants, and his necessary office expenses. Should the County Sheriff in any such County die, resign, or be removed from office, or should the office of County Sheriff in such County for any cause become vacant, the sums advanced hereunder for purposes aforesaid shall be charged against that part of the fees and commissions of the office of Sheriff of such County which have been or shall be paid into the State Treasury during the calendar year in which the said advancements have been made, and which such part is available for payment out of the State Treasury for the salaries of the Sheriff, and his deputies and assistants, and necessary expenses of his office.

Whereas, it is deemed important by the General Assembly that the advancements hereinabove provided for be made as soon as is possible to the sheriffs of Counties containing a population of 75,000 or more so that such Sheriffs may properly conduct their offices, an emergency is hereby declared to exist, and this Act shall become effective immediately upon its approval by the Governor.

#### To Committee on Kentucky Statutes No. 1.

Senator Trager offered the following resolution, viz.:

#### S. Res. 7.

WHEREAS, thousands of Kentucky employees are injured or killed as the reports of the Workmen's Compensation Board will testify and millions of dollars are spent in workmen's Compensation casualty insurance premiums every year, and

WHEREAS, Kentucky is one of the very few States

which is sadly lacking in adequate safety laws, State safety inspection and safety supervision of work places, resulting in high cost of workmen's compensation insurance, the unnecessary and unforgettable loss of life, maiming and injuring of defenseless workers, all of which adds greatly and unnecessarily to charity lists and deprives the widows and orphans and the maimed workers of wholesome life,

THEREFORE, BE IT RESOLVED that the Kentucky State Building and Construction Trades Council affiliated with the American Federation of Labor, in session in the city of Louisville, Kentucky on the 28th of November, 1937, call upon Governor Chandler, Lieutenant Governor Johnson, the members of the Compensation Board, the Commissioner of Industrial Relations and the members of the General Assembly to take immediate cognizance of this situation and secure the enactment of suitable legislation which will provide for adequate safeguards in all work places, State safety inspection and safety supervision to the end that safe and healthful working conditions shall prevail in Kentucky industries and workers shall not be subject to reckless and avoidable accidents that kill or injure, and

BE IT FURTHER RESOLVED that a copy of this resolution be sent to all parties herein mentioned.

Ordered referred to the Committee on Labor and Manufacturing.

### CALENDAR

The Senate took up for consideration from the calendar a bill of the following title, viz.:

S. B. 1. An Act appropriating money for the operation, maintenance, support, and functioning of the various officers, departments, boards, commissions, institutions, and subdivisions of the Commonwealth of Kentucky, and the purchase of record books, as provided by Section 338, Kentucky Statutes, 1936 Edition, Judiciary and Court Costs, Confederate Pen-

sions, Frankfort Cemetery, Jefferson and Kenton County Fees and defraying the expenses of any or all other State obligations for the fiscal years ending June 30, 1939, and June 30, 1940, designating the sources and funds from which the same are to be paid, providing for the payment into the State Treasury of all fees and other miscellaneous receipts collected by all the different officers, departments, boards, commissions, institutions, and subdivisions of the State Government which include all the different agencies of the State, providing for the establishment of certain revolving funds specifically mentioned, providing for money refund, authorizing and empowering the Governor of the Commonwealth to equitably reduce, or adjust the appropriations made to officers, departments, boards, commissions, institutions, and subdivisions of the State and all other agencies specifically mentioned therein and authorizing the State Budget Officer with the approval of the Commissioner of Finance to make allotments and/or re-allotments from appropriations made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government and other agencies, and authorizing transfers from allowances for one budget class to allowances in another budget class within the same budget unit, when approved by the Commissioner of Finance providing that certain appropriations shall be limited to specific purposes, barring the use of appropriations for certain purposes, and repealing all blanket and continuing appropriations not provided for in this Act, and all appropriations made by any previous act, or acts of the General Assembly of the Commonwealth of Kentucky and repealing all laws or parts of laws in conflict with any of the provisions therein and enacting each section and each subsection as a separate or specific appropriation.

Ordered that said bill be read for the second time.

Senator Gilbert moved that the second reading at length

of said bill be dispensed with and the same be read for the second time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provisions as to the second reading at length of said bill having been dispensed with, said bill was read the second time by its title only and ordered placed in the Orders of the Day.

Senator Gilbert moved that the Senate do now resolve itself into a committee of the whole senate for the purpose of considering a resolution of the following title, viz.:

S. Res. 5. RESOLUTION concerning the rules to govern the Senate in its deliberations for the 1938 Regular Session of the General Assembly.

Said motion was agreed to.

Whereupon, the President of the Senate vacated the chair which was occupied by Senator Dawson, President Pro Tem. of the Senate, who presided.

After a time, Senator Gilbert moved that the Committee of the whole Senate do now dissolve.

Said motion was agreed to.

Whereupon, the President of the Senate having resumed the chair, Senator Dawson of the Committee of the Whole Senate reported that said Committee had had under consideration a resolution of the following title, viz.:

S. Res. 5. (For title see S. J. of today, ante.)

Said resolution reads as follows, viz.:

(For resolution see S. J. of January 5th, ante.)

And that the Committee of the Whole Senate recommended the adoption of the following amendments to said resolution, viz.:

Amendment No. 1. Amend Senate Resolution No. 5 by striking therefrom the words "Speaker of the House" wherever the same appear, and inserting in lieu thereof the words "President of the Senate".

Amendment No. 2. Amend Senate Resolution No. 5 by striking therefrom the words "bold face type" wherever they appear, and inserting in lieu thereof the word "italics".

Amendment No. 3. Amend Senate Resolution No. 5 by striking, from Section 5 on page 2, lines No. 1 to 20, inclusive, and inserting in lieu thereof the following:

"Section 5. No person shall be permitted upon the floor of the Senate when in session except the Governor, his Secretary, the present members of the House of Representatives, and the Clerks thereof, and any member of the family of the Governor and of the Presiding Officer of the Senate, or of any Senator, or of the Governor's Private Secretary and Personal Page of the Presiding Officer of the Senate; bona fide newspaper correspondents, designated in writing by the daily newspapers or press service they represent, shall be admitted to the privileges of the floor when recommended by the Capitol Press Club and approved by the President of the Senate; provided that the President of the Senate may admit any other newspaper correspondent. Such newspaper correspondent when admitted to the privileges of the floor shall be governed by the rules of this Senate. Accredited newspaper correspondents shall be assigned by the President of the



Senate to a press section specifically set aside for them by the order of the President of the Senate. Provided, that any one person may be extended the privilege of the floor upon invitation previously extended such person by a majority vote of the members of the Senate taken by roll call, but such privilege shall be extended only for a specified day and no other; and, provided further that the Presiding Officer shall have the power to limit the number of such motions for such invitations whenever in his judgment the business of the Senate so requires.”

Amendment No. 4. Amend Senate Resolution No. 5 by striking out line No. 4 on page 22 of printed bill and adding the following:

“Whenever the Rules are suspended, as above, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day. Any proposed alteration, change or amendments of the Rules shall, before a vote thereon is taken, be referred to the Committee on Rules without debate, and the Committee shall report thereon within two days.”

Amendment No. 5. Amend Senate Resolution No. 5 by striking from page one, in the sentence of introduction of said resolution, the word “bill” and inserting in lieu thereof the word “resolution”

Amendment No. 6. Amend Senate Resolution No. 5 by striking from page 22, in line No. 4, of Section 66, the figures “1936” and inserting in lieu thereof the figures “1938”.

Amendment No. 7. Amend Senate Resolution No. 5 by striking out the words “buff paper”, wherever they appear, and in lieu thereof inserting the words “pink paper”.

Senator Gilbert moved the adoption of each of the several

amendments to said resolution as heretofore recommended by the Committee of the Whole Senate.

Said motion was agreed to.

Whereupon, said amendments to said resolution were each and severally adopted.

Senator Gilbert moved that the Senate do now adopt said resolution as amended.

Said motion was agreed to.

Whereupon, said resolution, as amended, and the rules incorporated therein to govern the Senate in its deliberations for this Regular Session of the General Assembly of Kentucky for 1938 were adopted and approved by the Senate, same being as follows, viz.:

## RULES OF THE SENATE

### 1938 Session

Section 1. The Senate shall meet at 10 a. m. except on Monday, when it shall meet at 1 p. m.

Section 2. If the President of the Senate as provided in Section 87 of the Constitution, be called upon to administer the government or resign, die or be absent from the State, the President pro tem. of the Senate shall have all the rights and perform all the duties pertaining to the office of the President of the Senate. The President of the Senate may designate any Senator to preside in the absence of both the President and the President pro tem., until the Senate shall select one of its members to preside during such absence.

When the President and President pro tem. of the Senate shall both be absent from the Senate and no Senator has been designated as above provided, to preside over the Senate, the Chief Clerk shall call the Senate to order in the same man-

ner as the President of the Senate is required under these rules, and the Senate shall then immediately choose one of its members to preside until the President or President pro tem. shall return or be present in the Senate.

Section 3. If a quorum be not present at the time fixed for a meeting of the Senate, four Senators may adjourn or recess from day to day or from time to time in any day when a quorum is not present and eight Senators may order a call of the Senate and send for absent Senators. No Senator shall absent himself from a session of the Senate without leave from the Senate.

All pairs announced in the Senate shall be entered on the Journal.

The names of the Senators shall be arranged alphabetically upon the roll call or when taking a yea and nay vote.

Any Senator, with a second, may demand a roll call on any matter pending before the Senate.

Section 4. Upon a call of the Senate the roll shall be called by the Clerk, and the absentees noted. The absentees shall then be called again. The doors of the Senate Chamber shall then be closed and the absentees for whom no sufficient excuse is made, by order of a majority of those present, may be sent for and arrested wherever they may be found by the Sergeant-at-Arms or his assistants, and their attendance secured and retained; and the Senate shall determine upon what conditions they shall be discharged from arrest. Senators who voluntarily appear shall, unless the Senate otherwise direct, be immediately admitted to the floor of the Senate and they shall report their names to the Clerk to be entered upon the Journal as present.

Section 5. No person shall be permitted upon the floor of the Senate when in session except the Governor, his Secretary, the present members of the House of Representatives, and the Clerks thereof, and any member of the family of the Governor and of the Presiding Officer of the Senate, or of any Senator, or of the Governor's Private Secretary and Personal

Page of the Presiding Officer of the Senate; bona fide newspaper correspondents, designated in writing by the daily newspapers or press service they represent, shall be admitted to the privileges of the floor when recommended by the Capitol Press Club and approved by the President of the Senate; provided, that the President of the Senate may admit any other newspaper correspondent. Such newspaper correspondents, when admitted to the privileges of the floor shall be governed by the rules of this Senate. Accredited newspaper correspondents shall be assigned by the President of the Senate to a press section specifically set aside for them by the order of the President of the Senate. Provided that any one person may be extended the privilege of the floor upon invitation previously extended such person by a majority vote of the members of the Senate taken by roll call, but such privilege shall be extended only for a specified day and no other; and, provided further that the Presiding Officer shall have the power to limit the number of such motions for such invitations whenever in his judgment the business of the Senate so requires.

No person who shall have been extended the privilege of the floor for a specific time, as herein provided, shall engage in any activities for or against any bill, motion or other proceeding upon the floor of the Senate while in session.

No person shall engage in lobbying for or against any measure while the Senate is in session, in any of the corridors or passages or in any of the rooms in that part of the Capitol assigned to the use of the Senate and no registered lobbyist shall enter into any of the rooms assigned to the use of the Senate while the Senate is in session, or remain in the corridors or passages on the third floor of the Capitol assigned to the use of the Senate. Provided, however, this rule shall not be construed to prohibit the use of the corridors or passages in going to and from the Senate galleries by any person.

It shall be the duty of the Sergeant-at-Arms and the Doorkeeper of the Senate to exclude all persons not entitled



to the floor of the Senate Chamber. If however other persons find their way to the floor it shall be the duty of the Sergeant-at-Arms to remove them. At least five minutes before the hour of convening each day the Sergeant-at-Arms shall clear the floor of the Senate Chamber of all persons not entitled to the floor and he shall make announcement in a loud, distinct voice: "All persons not entitled to the floor of the Senate under the rules thereof will now vacate the Senate Chamber." He shall then compel each and every person then in the Senate Chamber who is not entitled to remain therein to leave the Senate Chamber.

The Sergeant-at-Arms of the Senate, before any joint session is to be held, shall request the Sergeant-at-Arms of the House to arrange for the seating of the members of the Senate in a body. The Senators will assemble in the Senate Chamber five minutes before the meeting of any joint session and go to the House in a body.

Section 6. In the event of any disorder in the gallery or in the Senate Chamber the Presiding Officer shall have power to have same repressed. He may require the Sergeant-at-Arms or other officers or employees of the Senate to clear the gallery or to remove from the gallery or the Senate Chamber any persons creating disturbances or disorder or who may not be entitled to the privileges of the floor of the Senate.

Section 7. All the employees of the Senate, except the assistants to the Clerk, shall each legislative day, half an hour before the meeting of the Senate for that day, report to the Sergeant-at-Arms of the Senate, who shall in turn report to the President of the Senate, whether or not all of said employees are on duty, and the President of the Senate, whenever he deems it necessary, shall report to the Senate any dereliction of duty. The stenographers of the Senate shall perform the services for the Senators and the committees of the Senate and the Sergeant-at-Arms at such place and during such hours as may be fixed by the President of the Senate. No employee



of or person elected by the Senate shall receive any fee, tip or compensation from any Senator. Any violation of this rule shall be ground for dismissal of said employee.

### DUTIES OF THE PRESIDENT

Section 8. The President of the Senate shall take the chair every day precisely at the hour fixed for the meeting of the Senate and on the appearance of a quorum, shall cause the Journal of the preceding day to be read, provided the reading of the same is not dispensed with by the Senate.

He shall preserve decorum and order, and while presiding may speak to points of order in preference to Senators. He shall decide points of order and manner of procedure; but any decision made by him shall be subject to appeal to the Senate. Every such appeal shall be in writing, and signed by at least two Senators.

During the pendency of an appeal to the Senate from a decision of the chair, the President of the Senate or the officer from whose decision the appeal is taken shall vacate the chair, and call the President pro tem. to preside during the appeal. If the President pro tem. is absent from the Senate, or is one of the Senators taking the appeal, the presiding officer of the Senate may call any other Senator to preside.

It shall be the duty of the President of the Senate to refer all bills to the proper committees on the day on which they are introduced.

The President shall have supervision and control of all employees of the Senate, whether elected by the Senate or appointed by the President or otherwise and the President shall see that they perform all of their duties to the Senate and the members thereof.

Section 9. All writs, warrants, subpoenas or other process shall be signed by the officer who may be presiding over the Senate when such paper is issued; and his signature to said paper shall be attested by the Clerk.

Section 10. Senators shall vote only when at their seats or when in the main part of the Chamber and not from places under the galleries. If the presiding officer be in doubt as to the result of a viva voce or a division be demanded, the Senate shall divide.

Those voting in the affirmative shall first rise and be counted. After the presiding officer has announced the number of those voting, those voting in the negative shall rise and be counted and the number so voting shall be announced by the presiding officer. He may appoint tellers to count those voting.

Section 11. If any Senator, in speech or otherwise, transgresses the rules of order or decorum or becomes offensive to the chair, or to any Senator, he shall immediately be called to order by the chair either with or without motion or suggestion from a Senator, and he shall immediately take his seat.

The objectionable words shall be reduced to writing by the Clerk, who shall then read them to the Senate. The presiding officer, after hearing a short explanation from the alleged offender or upon the withdrawal of the objectionable language, may permit the one offending to proceed or he may compel continued silence upon the one so offending until the matter under consideration is disposed of. The ruling of the chair, whatever it may be, shall be subject to an appeal to the Senate.

A Senator offending in this respect shall be liable to the censure of the Senate. No Senator shall designate another Senator by name.

Section 12. If two or more Senators arise from their respective seats and address the chair (nearly together) the presiding officer shall determine who was first and recognize him, but no Senator may speak more than once to the same subject until all the Senators desiring to be heard have spoken. Nothing in this rule shall, however, do away with the "previ-

ous question'' if then in effect. Neither shall it permit debate on an undebatable motion.

No member shall speak more than one hour in the aggregate on any question or measure.

Section 13. No Senator shall vote on any question in the result of which he is personally or privately interested.

### CLERK OF THE SENATE

Section 14. The Clerk shall make all reports to the House of Representatives, unless otherwise ordered.

Section 15. Each day half an hour before the time fixed for the meeting of the Senate, the Clerk or one of his assistants shall be present at the Clerk's desk with the minutes of the preceding session for the inspection of any member of the Senate.

Section 16. All questions of order together with the disposition of same, shall be noted by the Clerk upon the Journal.

The Chief Clerk of the Senate shall on the last day of the session of the General Assembly, file with the Senate an itemized statement of the expenditures made by him.

*Clerk to Have Charge of Clerical Business of Senate.*—The Clerk shall have charge and supervision of all the clerical business of the Senate. He shall perform the duties imposed on him by law and the rules of the Senate. He shall have charge of the Clerk's desk and shall see that no one is permitted therein except himself and those assisting him.

*Duties of Clerk.*—It shall be the Clerk's duty to read to the Senate papers ordered to be read; to call the roll and note and report the absentees, when a call of the Senate is ordered; to call the roll and note the answers of members, when a question is taken by yeas and nays; to assist, under the direction of the President of the Senate, in taking the count when any vote of the Senate is taken; to notify committees of their appointment and the business referred to them; to superintend the execution of all printing ordered by the Senate and to *report to the President of the Senate*, to be submitted to the

Senate, *every failure of the printer to execute the same properly and promptly.* He shall attest all writs, warrants and subpoenas issued by order of the Senate and shall certify to the passage of all bills, and to the adoption of all joint and concurrent resolutions by the Legislature. In addition to his other duties the Clerk shall keep the accounts for pay and mileage of members, officers and attaches, and for printing and other contingent expenses of the Senate and prepare and sign warrants or requisitions for the same.

The Clerk shall superintend the recording of the Journal of the proceedings, and engrossing and enrolling of bills and shall cause to be kept and prepared for the printer the Daily Journal of the proceedings of the Senate.

*Clerk to Have Custody of All Records.*—The Clerk shall have the custody of all records and papers of the Senate, and shall not allow them to be taken from the table or out of his possession without the leave of the Senate, unless to be delivered to the chairman of a committee to which they may have been referred and then he shall take a proper receipt therefor. He shall endorse on bills and papers brief notes of proceedings had thereon by the Senate and preserve the same in convenient files for reference.

*Clerk to Have Charge of All Printing.*—The Clerk shall have supervision and charge of all printing done for the Senate and the public printer shall print only such documents and other matter as the Clerk authorizes.

*Printed Bills After the Session.*—When the Clerk has finished his work at the Capitol after the session of the General Assembly, he shall transmit to the State Librarian the unused printed copies of bills in his possession. Before transmittal he shall upon the face on one printed bill which was not amended stamp the following words, "Became a law without amendment." Upon the face of printed copies which amended he shall stamp the words, "Became a law with amendments." Upon other copies he shall stamp the words, "Failed to become a law."

The Clerk of the Senate shall provide each Senator with a bill holder fitted and arranged to place all printed bills introduced in the Senate.

### ORDER OF BUSINESS

Section 17. The order of business shall be as follows:

Invocation.

Roll call.

Reading and approval of the Journal.

Petitions and communications.

Motions.

Introduction of bills.

Senate resolutions.

Joint resolutions.

Reports of standing committees.

First reading of bills.

Reports of special committees.

Second reading of bills.

Orders of the day.

Section 18. A petition, memorial, or other paper addressed to the Senate or the Legislature may be laid before the Senate by the President or Senator to whom the same was sent for presentation and a brief statement may be made by the one presenting the same.

Section 19. Unfinished business which was being considered upon the last adjournment shall have precedence in that class of business to which it properly belongs upon the next succeeding legislative day.

Section 20. In forming a committee of the whole the President of the Senate shall leave the chair and call the President pro tem. to preside as Chairman. If the President pro tem. is absent from the Senate the presiding officer of the Senate may call any other Senator.

Section 21. Upon a bill being committed to the committee of the whole the same shall be first read through by the Clerk (unless otherwise ordered by a majority) and then



again read for amendments by clauses or sections, leaving the preamble, of any, to be last considered. After report the bills shall then again be read, if desired by a majority for amendment or debate.

Section 22. The body of the bill shall not be defaced or interlined; but all amendments, noting the page and line, shall be duly entered by the Clerk on a separate paper and so reported to the Senate, as the same shall have been agreed to, and the same shall be considered in the Senate in the order in which they were adopted in committee; and all amendments made in committee to an original motion shall be incorporated with the motion and so reported, and the above rule shall apply to all other subjects in committee of the whole as well as bills.

Section 23. Nothing shall be introduced or offered in committee of the whole except it relates to the matter under consideration.

### BILLS

Section 24. *Bills to be Presented in Triplicate.*—All bills shall be introduced in triplicate without folding, and signed by the member introducing the same. They shall be typewritten, an original and two distinctly legible copies, the original copy for the permanent files of the Senate, the second for printing and committees, and the third for the use of and accommodation of the members of the press, which shall be kept by the Clerk in some convenient place for this purpose. When said bill or resolution proposes to amend any then existing statute or section thereof, the author of said bill or resolution shall indicate the new matter therein by underlining in the original bill and copies introduced; and when said bill is ordered printed, said amendment shall appear in Italics.

*Companion Bills.*—When a bill is introduced in the Senate containing identically the same text, as a House bill, the Senate shall designate its author in the usual way, followed immediately by the name of the House member introducing

the companion bill in the House, which name shall be in parentheses. As soon as possible after the introduction of the respective bills, the Clerk of the Senate shall ascertain the corresponding file number of the companion bill in the House and note the same on the bill.

*Printing of Bills.*—The Clerk shall order printed 300 copies of such companion bill when introduced first in the Senate. The heading shall show each author and the number of the bill in each house. One-third of the bills thus printed shall be for the use of the Senate and two-thirds for the use of the House.

The State Printer shall immediately after receipt of the copy of any Senate bill or resolution print, in addition to the regular number herein authorized, *one copy thereof upon* pink paper on one side of the paper only which copy shall be delivered to the Clerk of the Senate. The Clerk and the Senator introducing the bill shall carefully compare the printed copy of said bill with the triplicate copy thereof and, if said printed copy is found to be in all respects correct, it shall be so certified on the cover, and said Clerk shall cause the copy of said bill printed upon pink paper to be securely bound with a substantial cover on which the history of said bill shall be endorsed; whereupon said bound copy, printed upon pink paper so compared and certified to, shall be substituted for the original copy introduced and thereafter be deemed the official copy of said bill or resolution.

Section 25. Every joint or concurrent resolution in which the concurrence of the House of Representatives is necessary shall be read to the Senate and laid upon the table at least one full legislative day preceding that on which the same may be considered.

Section 26. Resolutions having the force and effect of laws shall be, in all respects, treated and considered as bills shall be treated under these rules.

Section 27. Bills originating in the Senate shall be introduced in open session and each shall be read by its title.

The bill shall then be referred to a committee and be printed for the use of the members. If a bill be reported unfavorably, or without expression of opinion, a vote may then be taken whether it shall be read at length and be placed on the calendar. Provided, however, that shall not be done unless a majority of the members elected to the Senate shall concur therein. When reported favorably by the committee the bill shall then be given its first reading at length and shall be placed by the Clerk upon the calendar to be kept by him, and so remain on the calendar till the next succeeding legislative day. Said bill shall then be entitled to its second reading.

The Clerk shall keep a calendar showing such bills as are entitled to their second reading each day, distinguishing between House and Senate bills. Whenever a committee fails or refuses to report within a reasonable time a bill submitted to it, the same may be called up by any member and be considered as if it had been regularly reported.

Provided, however, that no bill may be called from any committee without the concurrence of a majority of members elected to the Senate.

Every bill shall be read at length on three different legislative days; but the second and third reading thereof at length may be dispensed with at the instance of a majority of all the members elected to the Senate and the bill may then be read by its title. No bill shall become a law unless on its final passage it receives votes of at least two-fifths of the members elected to the Senate and a majority of the members elected to the Senate voting taken by yeas and nays entered on the Journal; provided any act or resolution for the appropriation of money or the creation of a debt shall, on its final passage, receive the votes of a majority of all the members elected to the Senate, and provided further that any bill wherein it is declared that an emergency exists shall require the concurrence of a majority of the members elected to the Senate by an yea and nay vote entered upon the Journal.

Bills shall be printed and distributed in the order in

which they are introduced, and the Committee on printing shall have charge and supervision of same.

Section 28. The Clerk of the Senate shall keep a record showing to what committee each bill or resolution has been referred, the date of such reference, together with the date of its return to the Senate. The records shall also show the date when the committee first received the bill and when the same was finally reported by the committee to the Senate.

The report or recommendation of the committee which considered the bill, together with a minority report if one be made, shall also be entered upon said record under one of the following expressions:

“Favorably Reported”,

“Favorably Reported, accompanied by a minority report”,

“Unfavorably Reported”,

“Unfavorably Reported, accompanied by a minority report”,

“Without Expression of Opinion”.

Upon the call of standing committees by the Clerk, the Chairman or ranking member thereof shall disclose the disposition of the matter or matters submitted to their respective committees in the following manner:

“Mr. President, the Committee on..... (naming the committee) to which was submitted (Senate or House bill or resolution, naming the same and giving the number thereof) reports as follows:

“Unfavorably Reported”,

“Favorably Reported”,

“Favorably Reported, accompanied by a minority report”,

“Unfavorably Reported, accompanied by a minority report”,

“Without Expression of Opinion”.

A minority report must be signed by those members who have dissented from the committee's report and it shall be in



order to move the adoption of the minority report as a substitute for the committee's report when the committee offers its report. However, it shall require a majority of the members elected to adopt same; but it shall always be required that the committee's report be read before the minority report is read.

Section 29. The Senate Journal shall also note the dates upon which all bills and resolutions were sent to their respective committees as well as the dates upon which same were returned to the Senate.

Section 30. The Clerk of the Senate shall keep a calendar for each Legislative day of the session showing the bills entitled to a second reading upon that day distinguishing between House bills and Senate bills.

Section 31. When a Senate Bill has been amended in the House and the Senate has concurred in the House amendment, the bill as amended shall immediately be put upon its passage.

When a Senate bill has been amended in the House and the Senate refuses to concur in said amendment, and when a House bill has been amended by the Senate and the House shall refuse to concur in said amendment and when neither will recede from said amendments, a Conference Committee shall be appointed by the Presiding Officer of the Senate to meet a like committee from the House and said Committee shall confer with the House Committee and report back to the Senate within a reasonable time.

When a bill has been referred to the Committee on Conference and a report has been made thereon in the same manner as reports are made for Senate bills, the Conference report shall be voted upon; and, if adopted, the bill shall immediately be put upon its final passage.

EVERY BILL SHALL BE PUT UPON ITS FINAL PASSAGE IMMEDIATELY AFTER ITS THIRD READING UNLESS OTHERWISE ORDERED BY THE SENATE.

Section 32. Every Senate Bill and joint resolution



together with the amendments thereof passed by the Senate and being the subject of no further amendment or motion shall be engrossed by the Clerk of the Senate and delivered to the House of Representatives in open session by the Clerk of the Senate, or by some one designated by the President.

Section 33. When a bill has had its second reading it shall be placed in the Orders of the Day or be recommitted and when next reached in the Senate it shall be ready for recommitment, amendment or debate, or to be read a third time and placed upon its passage, and the presiding officer shall so announce to the Senate. A bill may be recommitted or amended at any time before its passage.

Section 34. When a bill shall have passed the Senate and shall have been properly engrossed, and shall no longer be the subject of further amendment or motion it shall be so certified by the Clerk of the Senate endorsing thereon the day of passage or adoption, and taken by him and delivered to the House of Representatives in open session, and its concurrence asked therein.

And a like procedure shall be observed toward amendments put by the Senate upon a House bill; but there shall intervene at least one Legislative day between the day of passage of any bill or the concurrence in any amendments and its delivery to the House. Provided, however, that this rule shall not apply to the last fifteen legislative days of the session.

Section 35. When a Senate bill has been amended in the House and has been returned to the Senate for concurrence in the amendment it may be referred to a committee, but if referred, it shall be done in the same manner as original bills are referred.

Section 36. BILLS AFTER THEIR SECOND READING SHALL BE PLACED IN THE ORDERS OF THE DAY IN THE ORDER IN WHICH THEY HAVE BEEN GIVEN THEIR SECOND READING, and shall be taken therefrom for their third reading and final consideration in

the order in which they appear in the Orders of the Day, unless otherwise ordered by a majority of the Senators elected.

Section 37. When a Senate bill is in the Orders of the Day, it may be in order on motion of the author to substitute an identical House bill which has been properly certified to the Senate by the House.

When engrossing a bill the Clerk may incorporate amendments by means of typing only. When an amendment strikes out any part of the original it shall be indicated in the engrossed copy by one parallel line over the part to be stricken out, in such a way as not to render illegible the original words.

All amendments shall give the proper page and line of the printed bill.

The Clerk shall post conspicuously the number of all bills recommended for said calendar by the Rules Committee and the number of all bills placed in said calendar by the Committee of the whole Senate.

*Amendments—Forms For.*—The Clerk shall furnish to members sheets with a proper heading printed in blank upon which amendments shall be written, and all amendments offered shall be on such blanks and bear the name of the member offering the same.

*Must be Germane.*—No amendment shall be in order that is not germane to the matter under consideration; and the President of the Senate, when the question is raised, shall rule as to the admissibility of the proposed amendment.

*By Striking Out Enacting Clause.*—A motion to amend by striking out the enacting clause of a bill shall have precedence over another motion to amend, and, if carried, the bill or resolution is rejected.

Section 38. Bills originating in and passed by the House of Representatives, when reported to the Senate, shall be referred to a committee by the President and shall take the same course as other bills.

Section 39. All Senate bills and resolutions which have

passed both Houses, the Senate and the House of Representatives, shall be delivered by the Senate Clerk to the Enrolling Clerk, in the order in which passed, who shall be responsible for their safekeeping until they are delivered to the Committee on Enrollments.

The Enrolling Clerk shall immediately upon receipt of said bills or resolutions, plainly and legibly enroll the same, using good paper, pen and ink, free from blots, interlineations or erasures. So soon as said enrollment is completed the Enrolling Clerk shall deliver the original bill or resolutions and the enrolled copy thereof to the Committee on Enrollments. The Enrolling Clerk and said committee shall jointly compare one with the other, and if the enrollment is ascertained to be correctly done the committee shall report the same to the Senate to be again read and compared in open session.

Immediately after said last named reading and comparison the original paper and the enrolled bill shall be returned to the Clerk of the Senate, who shall thereafter be responsible for the safekeeping thereof. As soon as the enrolled bill or resolution has been signed by the presiding officers by both the Senate and the House of Representatives, the Clerk of the Senate shall present the enrolled paper to the Governor for his approval and take his receipt for same.

If any bill or resolution is found not correctly enrolled it shall be returned to the Enrolling Clerk to be properly enrolled, which, when done, shall be delivered to the Committee on Enrollments as is first provided herein.

The Enrolling Clerk shall receive no compensation other than the per diem allowed by law.

Section 40. The Committee on Enrollments may report at any time except during roll call or while a vote is being taken.

Section 41. No bill shall be copied or distributed by the public printer or any employee of the Senate or other person whose duty it is to have custody of the same until the same

shall have been printed and returned with the printed copies thereof to the Clerk of the Senate, and all bills shall remain at all times in the hands of the Clerk of the Senate, Public Printer or the Committees to which said bills have been referred. It shall be the duty of the Committee on Public Printing to see that the provisions of this rule are rigidly enforced.

Section 42. No record which is in the hands of the Clerk of the Senate and is required by law to be entered upon the Journal of the Senate, shall be copied by the Clerk or any other person for any person or persons whatsoever until same shall have been entered upon the aforesaid Journal and said Journal shall have been approved. The Committee on Public Printing shall rigidly enforce this rule.

Section 43. No bill shall be considered by the Senate during the last fifteen legislative days of the session of the Senate or during any special session except upon the recommendation or report of the Rules Committee previously obtained, nor shall the Senate consider any bill originating in the House of Representatives during the last fifteen legislative days of the session of that body nor during any special session, except upon the recommendation or report of the Rules Committee of the Senate previously obtained, unless otherwise ordered by a majority of the members elected to the Senate.

The Rules Committee of the Senate will take charge of and control all bills to be considered by the Senate during the last fifteen legislative days of the session of the Senate and during any special session and will determine what bills shall be considered during that time, and the order in which they shall be taken up and considered.

If and when the time be fixed for the sine die adjournment of the session of the General Assembly, the "last fifteen legislative days" as hereinabove provided shall be held and construed to mean the last fifteen legislative days next prior to the time so fixed for the sine die adjournment. If the



resolution be adopted for sine die adjournment within fifteen days of the time fixed for such adjournment, then the Rules Committee shall take charge for such lesser number of days as may remain from the time such resolution for sine die adjournment is adopted and the time fixed for such adjournment.

The Floor Leader of the Senate shall act for the Rules Committee in calling from committees any bills or resolutions, and shall be recognized by the President of the Senate for said purposes during all times that the Rules Committee is in charge.

The President of the Senate shall be ex-officio chairman of the Rules Committee, and, in his absence, the President Pro Tempore of the Senate shall act as chairman of the Rules Committee.

Section 44. There shall be printed 100 copies of each bill and joint resolution introduced.

### PARLIAMENTARY RULES

Section 45. In the absence of a specific rule of the Senate, General Parliamentary Law shall govern the proceedings thereof.

Section 46. No Committee except the Committee on Enrollment and a Committee of Conferences between the House and Senate shall sit while the Senate is sitting unless by consent of the Senate.

Section 47. The Senate may correct errors in the Journal on the day the Journal containing errors is presented to the Senate for approval.

Section 48. Every oral motion after it has been stated by the presiding officer, and every written motion, bill, resolution or other paper, after it has been read by the Clerk shall be the property and in possession of the Senate; and shall not be withdrawn without the consent of the Senate.

Section 49. When a question is under consideration, no motion shall be in order except:



*First*—To fix the time to which the Senate shall adjourn.

*Second*—To adjourn.

*Third*—To take recess.

*Fourth*—To lay on the table.

*Fifth*—For the previous question.

*Sixth*—To postpone to a fixed time.

*Seventh*—To commit.

*Eighth*—To amend.

*Ninth*—To postpone indefinitely.

The above several motions shall have precedence in the order in which they are arranged; and the first five of them shall not be debatable. A second motion to adjourn to take a recess, to lay on the table, for the previous question, to postpone to a time certain, to commit or to postpone indefinitely, shall not be in order on the same day, upon the same question, and at the same status thereof; provided, however, that amendments may be made to the time to which it is proposed to adjourn, to take a recess or to postpone.

Section 50. A motion to strike out the enacting words of a bill or resolution shall have precedence of a motion to amend; and if adopted shall have the same effect as though the bill or resolution were regularly voted upon and rejected.

Section 51. A motion to adjourn, to take a recess or a motion to adjourn to a time certain shall always be in order, except when a member is speaking or while a vote is being taken; subject, however to the limitation set out in Rule 49.

Section 52. When the "previous question" has been ordered a vote shall be immediately taken upon the pending measure and such pending amendments as are in order.

The effect of the "previous question" shall be to put an end to all debate; to prevent the offering of additional amendments, and to bring the Senate to an immediate vote upon the measure and amendments aforesaid.

The previous question may be ordered by a majority of the Senators voting on that question. On the call of the roll no Senator shall be allowed to speak more than three minutes

to explain his vote and shall not speak at all if the question is not a debtable question. After the previous question has been ordered a Senator whose bill or amendment or motion (if debatable) is pending may speak not exceeding ten minutes.

Section 53. When a measure shall have been postponed indefinitely it shall not be in order again during the session.

Section 54. Every written motion, report or measure may be committed or recommitted at the pleasure of the Senate.

Section 55. A motion to commit, recommit, or postpone a part of a measure so as to separate that part of the measure from the remainder, shall not be in order.

Section 56. A motion to reconsider a vote shall not be in order unless made by a Senator who voted upon the prevailing side of the question; nor shall such motion be in order unless made within two Legislative days next after the day the vote was taken.

However, the motion to reconsider when coupled with the additional motion to lay that motion upon the table, may be made by any Senator.

Section 57. Any pending bill, resolution, motion or report shall be read by the Clerk upon the demand of any Senator, but shall not again be read on the same day unless so ordered by the Senate.

Section 58. The Rules of the Senate, after their adoption shall not be altered, changed, amended, suspended or interrupted, unless the same be done by a majority of the members elected to the Senate.

Whenever the Rules are suspended, as above, no measure shall be considered under suspension except the measure or measures in whose favor the suspension was invoked, and only for that day. Any proposed alteration, change, or amendment of the Rules shall, before a vote thereon is taken, be referred to the Committee on Rules, without debate, and the Committee shall report thereon within two days.

Section 59. All questions, whether in Committees of the Whole or in the Senate (WHEN NOT A PRIVILEGED QUESTION) shall be propounded in the order in which they were moved except that in filling blanks, the smallest sum and the most remote date shall be put first.

Section 60. The Rules of Procedure in the Senate shall be observed in Committee, so far as the same are applicable.

Section 61. When the roll is being called in taking a yea and nay vote and the hour of adjournment arrives, the same shall stand extended until after said yea and nay vote has been completed, and the announcement of the result made.

Section 62. In all elections a previous nomination shall be made.

Section 63. When a motion has been made and seconded it shall be stated by the chair; or being in writing, shall be read by the Clerk before debate, amendment or motion concerning it shall be in order.

Section 64. In all cases where general parliamentary law provides for a rule of two-thirds it shall mean in this Senate a majority of all the members elected thereto.

Section 65. One hundred copies of these rules shall be immediately printed for the use of the General Assembly.

Section 66. The following shall be the Standing Committees of the Senate; and the members of said committees shall be appointed by the President of the Senate.

## SENATE COMMITTEES

Regular Session, 1938

AGRICULTURE AND STATE FAIR

O. C. Whitfield, *Chairman*

Stanley Blake

P. M. Basham

W. A. Crockett

J. A. Sugg

Dr. D. H. Bush

Otis White

## APPROPRIATIONS

E. C. Moore, *Chairman*

Ralph Gilbert	Otis White
B. M. Williams	J. W. McDonald
Ervine Turner	J. E. Trager
Leo King	T. O. Turner
J. J. Hettinger	E. C. Dawson

## BANKS AND TRUST COMPANIES

Lee Gibson, *Chairman*

William Attkisson	Aubrey Barbour
H. W. Hillman	O. J. Bowen

## CHARITABLE, PENAL, AND REFORMATORY INSTITUTIONS

W. A. Crockett, *Chairman*

O. C. Whitfield	W. C. Farmer
I. W. See	J. C. Rogers

## CHILD WELFARE AND SOCIAL WORK

H. W. Hillman, *Chairman*

Paul Sidebottom	E. T. Wesley
W. C. Farmer	Aubrey Barbour

## CLASSIFICATION OF TOWNS AND CITIES

E. T. Wesley, *Chairman*

J. C. Rogers	W. A. Crockett
J. M. Wolfenbarger	Stanley Blake

## COMMON CARRIERS AND COMMERCE

E. C. Dawson, *Chairman*

H. W. Hillman	I. W. See
J. Lee Moore	T. O. Turner
P. M. Basham	J. W. McDonald

## COMPENSATION FOR INDUSTRIAL INJURIES

William Attkisson, *Chairman*

Leer Buckley	Ervine Turner
Strother Melton	J. W. McDonald

## CONSTITUTIONAL AMENDMENTS

Aubrey Barbour, *Chairman*

Leer Buckley	O. J. Bowen
W. C. Farmer	Strother Melton

## COURTS AND LEGAL PROCEDURE

J. W. McDonald, *Chairman*

J. E. Wise	J. C. Rogers
P. M. Basham	E. T. Wesley
E. C. Moore	Ralph Gilbert

## CRIMINAL LAW

P. M. Basham, *Chairman*

J. C. Rogers	E. C. Moore
J. E. Wise	Leo King
J. W. McDonald	Leer Buckley

## DRAINS AND DITCHES

J. A. Sugg, *Chairman*

Lee Gibson	O. C. Whitfield
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## EDUCATION

J. C. Rogers, *Chairman*

Paul Sidebottom	W. C. Farmer
William Attkisson	O. J. Bowen
P. M. Basham	Lee Gibson

## ENROLLMENT

E. C. Dawson, *Chairman*

Joe P. Tackett	Ralph Gilbert
W. H. Jones	E. C. Moore



## EXECUTIVE AFFAIRS AND FEDERAL RELATIONS

Lee Gibson, *Chairman*

J. E. Wise	J. J. Hettinger
Otis White	E. C. Moore
Dr. D. H. Bush	W. H. Jones
J. M. Wolfinbarger	J. E. Trager
Stanley Blake	Paul Sidebottom

## FISH AND GAME

John M. Hall, *Chairman*

Ralph Gilbert	Ray B. Moss
W. H. Jones	W. A. Crockett
O. C. Whitfield	J. A. Sugg

## FORESTRY AND STATE PARKS

O. J. Bowen, *Chairman*

S. B. Mayer	Ray B. Moss
Paul Sidebottom	J. E. Trager
E. T. Wesley	W. A. Crockett

## GEOLOGICAL SURVEY

W. C. Farmer, *Chairman*

J. E. Trager	Lee Gibson
B. M. Williams	Paul Sidebottom

## INSURANCE

S. B. Mayer, *Chairman*

Leo King	O. J. Bowen
William Attkisson	Ray B. Moss
J. Lee Moore	Strother Melton

## JUDICIAL COUNCIL

J. E. Wise, *Chairman*

Joe P. Tackett	J. M. Wolfinbarger
J. C. Rogers	E. T. Wesley

## JUDICIARY

Joe P. Tackett, *Chairman*

William Attkisson	O. J. Bowen
Leer Buckley	J. E. Wise
Aubrey Barbour	Otis White

## KENTUCKY STATUTES No. 1

T. O. Turner, *Chairman*

B. M. Williams	E. C. Dawson
Lee Gibson	Ervine Turner
Leo King	John M. Hall
J. A. Sugg	J. C. Rogers

## KENTUCKY STATUTES No. 2

Paul Sidebottom, *Chairman*

J. E. Trager	Dr. R. C. Moss
J. E. Wise	S. B. Mayer
J. M. Wolfenbarger	O. J. Bowen

## KENTUCKY UNIVERSITY AND TEACHERS COLLEGES

Ray B. Moss, *Chairman*

B. M. Williams	Leer Buckley
Dr. R. C. Moss	T. O. Turner
J. A. Sugg	H. Watt Hillman

## LABOR AND MANUFACTURING

J. E. Trager, *Chairman*

H. Watt Hillman	Paul Sidebottom
I. W. See	Dr. D. H. Bush

## LIBRARY AND HISTORICAL RECORDS

Leer Buckley, *Chairman*

Jos P. Tackett	W. C. Farmer
Stanley Blake	S. B. Mayer

## MILITARY AFFAIRS

I. W. See, *Chairman*Leo King  
Strother MeltonPaul Sidebottom  
W. H. Jones

## MINES AND MINING

B. M. Williams, *Chairman*J. Lee Moore  
H. Watt Hillman  
Joe P. TackettO. C. Whitfield  
Ray B. Moss  
Lee Gibson

## MOTOR VEHICLES AND TRANSPORTATION

Strother Melton, *Chairman*S. B. Mayer  
J. Lee Moore  
J. E. Wise  
P. M. BashamE. C. Dawson  
Ervin Turner  
T. O. Turner  
E. T. Wesley

## MUNICIPALITIES

Dr. D. H. Bush, *Chairman*J. J. Hettinger  
William Attkisson  
Leer Buckley  
J. E. Trager  
Aubrey BarbourRay B. Moss  
J. E. Wise  
O. C. Whitfield  
John Hall  
Ed Dawson

## NATIONAL PARKS

J. M. Wolfenbarger, *Chairman*W. H. Jones, Jr.  
Dr. R. C. MossOtis White  
Strother Melton

## PRINTING

W. H. Jones, *Chairman*Joe P. Tackett  
Stanley BlakeStrother Melton  
William Attkisson

## PUBLIC HEALTH

Dr. R. C. Moss, *Chairman*Joe P. Tackett  
S. B. MayerDr. D. H. Bush  
I. W. See

## PUBLIC UTILITIES

J. J. Hettinger, *Chairman*Leo King  
J. Lee Moore  
Ray B. Moss  
Ervine Turner  
Lee GibsonStrother Melton  
Otis White  
O. J. Bowen  
John Hall  
Dr. R. C. Moss

## REAPPORTIONMENT

J. A. Sugg, *Chairman*Ervine Turner  
J. M. Wolfinbarger  
Dr. D. H. Bush.J. W. McDonald  
J. J. Hettinger  
John Hall

## REGULATION OF INTOXICATING LIQUOR

Leo King, *Chairman*E. C. Moore  
J. J. Hettinger  
John M. Hall  
T. O. Turner  
E. C. DawsonB. M. Williams  
Dr. D. H. Bush  
Ralph Gilbert  
P. M. Basham  
O. C. Whitfield

## REVENUE AND TAXATION

Ralph Gilbert, *Chairman*Leo King  
S. B. Mayer  
J. W. McDonald  
P. M. Basham  
B. M. WilliamsT. O. Turner  
Aubrey Barbour  
E. C. Dawson  
J. A. Sugg  
J. C. Rogers

## ROADS AND HIGHWAYS

Ervin Turner, *Chairman*

Dr. R. C. Moss	Aubrey Barbour
H. Watt Hillman	Paul Sidebottom
J. Lee Moore	J. J. Hettinger
John Hall	E. C. Moore
P. M. Basham	J. C. Rogers

## SUFFRAGE AND ELECTIONS

Otis White, *Chairman*

Paul Sidebottom	Stanley Blake
E. T. Wesley	Ralph Gilbert
W. A. Crockett	

## TRADE AND COMMERCE

Stanley Blake, *Chairman*

W. A. Crockett	W. C. Farmer
I. W. See	John Hall

## VETERANS LEGISLATION

J. Lee Moore, *Chairman*

William H. Jones	J. M. Wolfenbarger
Dr. R. C. Moss	Dr. D. H. Bush
Leo King	J. W. McDonald
I. W. See	Paul Sidebottom
Joe P. Tackett	

## RULES

Not announced as yet.

Senator Gilbert moved that one hundred copies of said rules as incorporated in said resolution be printed.

Said motion was agreed to.



Senator Gilbert moved that the Senate do now adjourn until two o'clock p. m., Monday, January 10, 1938.

Said motion was agreed to.

And then the Senate adjourned.

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MONDAY, JANUARY 10, 1938.

The Senate convened and was called to order by the President of the Senate, the Honorable Keen Johnson, Lieutenant Governor.

The Senate was opened with prayer by the Reverend R. B. Kelly, pastor of the Church of the Nazarene, Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names:

Wm. R. Attkisson	J. Joseph Hettinger	Ira W. See
Aubrey Barbour	H. Watt Hillman	Paul L. Sidebottom
H. Stanley Blake	Wm. H. Jones, Jr.	John A. Sugg, Jr.
Ollie J. Bowen	Leo King	J. E. Trager
Leer Buckley	J. W. McDonald	Ervine Turner
Dr. D. H. Bush	Stanley B. Mayer	E. T. Wesley
Waller A. Crockett	Strother Melton	Otis White
Edwin C. Dawson	E. C. Moore	O. C. Whitfield
W. C. Farmer	J. Lee Moore	B. M. Williams
Lee Gibson	Dr. R. C. Moss	J. E. Wise
Ralph Gilbert	Ray B. Moss	J. M. Wolfenbarger
John M. Hall	James C. Rogers	

Senator Dawson moved that the reading of the Journal of the proceedings of Thursday, January 6th, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.

Senator Ray B. Moss moved that the rules be suspended and the privilege of the floor be extended to former Senator John L. Trumbo.

Said motion was unanimously agreed to.

Senator Attkisson moved that the rules be suspended and the privilege of the floor be extended to Mr. Red Roberts, former Sergeant-at-Arms of the Senate, and Misses Marjorie Burke and Irene Erskine.

Said motion was unanimously agreed to.

Senator White moved that the rules be suspended and the privilege of the floor be extended to the Honorable Homer Beliles, former Representative from the Counties of Butler and Edmonson.

Said motion was unanimously agreed to.

Senator Gibson moved that the rules be suspended and the privilege of the floor be extended to Mr. James Russell of Owensboro, Kentucky.

Said motion was unanimously agreed to.

Senator Wise moved that the rules be suspended and the privilege of the floor be extended to Messrs. Roscoe Murray and H. B. Akers, of Upton, Kentucky.

Said motion was unanimously agreed to.

Senator Melton moved that the rules be suspended and

the privilege of the floor be extended to Mr. Joe Lovett of Murray, Kentucky.

Said motion was unanimously agreed to.

Senator R. C. Moss moved that the rules be suspended and the privilege of the floor be extended to the Honorable Ben Niles, President of the Kentucky Farm Bureau, the Honorable Ben Kilgore, Secretary of the Kentucky Farm Bureau.

Senator Sugg moved that the rules be suspended and the privilege of the floor be extended to Mr. and Mrs. Jess Buchanan of Eddyville, Kentucky.

Said motion was unanimously agreed to.

Senator E. C. Moore moved that the rules be suspended and the privilege of the floor be extended to Mr. Gilbert White and Dr. Sanders of Boyle County.

Said motion was unanimously agreed to.

Senator Ray B. Moss moved that the rules be suspended and the privilege of the floor be extended to former Representative L. R. Rice of Breathitt County, Kentucky.

Said motion was unanimously agreed to.

### HOUSE MESSAGE

A message was received from the House of Representatives announcing that they had passed a bill which originated in that body of the following title, viz.:

H. B. 1. An Act appropriating money for the operation, maintenance, support and functioning of the various officers,

departments, boards, commissions, institutions and subdivisions of the State Government of the Commonwealth of Kentucky, and the purchase of record books, as provided by Section 388, Kentucky Statutes, 1936 Edition, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees and defraying the expenses of any and all other State obligations for the fiscal years ending June 30, 1938, and June 30, 1940, designating the sources and funds from which said appropriations are to be made, describing the manner in which the same are to be paid, providing for the payment into the State Treasury of all fees and other miscellaneous receipts collected by all the different officers, departments, boards, commissions, institutions and subdivisions of the State Government, which include all the different agencies of the State, providing for the establishment of certain revolving funds specifically mentioned, providing for money refund, authorizing and empowering the Governor of the Commonwealth to equitably reduce, or adjust the appropriations made to officers, departments, boards, commissions, institutions, and subdivisions of the State and all other agencies, specifically mentioned therein and authorizing the State Budget Officer with the approval of the Commissioner of Finance to make allotments and/or re-allotments from appropriations made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government and other agencies, and authorizing transfers from allowances for one budget and class to allowances in another budget class within the same budget unit, when approved by the Commissioner of Finance providing that certain appropriations shall be limited to specific purposes, barring the use of appropriations for certain purposes, and repealing all blanket and continuing appropriations not provided for in this Act, and all appropriations made by any previous act, or acts of the General Assembly of the Commonwealth of Kentucky and repealing all laws or parts of laws in conflict with any of the

provisions therein and enacting each section and each subsection as a separate or specific appropriation.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

There is hereby appropriated out of the General Expenditure Fund for the fiscal year beginning July 1, 1938, and ending June 30, 1939, the following sums for the following officers, departments, boards, commissions, institutions, and subdivisions of the State Government, printing of County record books, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees and any other agencies of the State Government of the Commonwealth of Kentucky, subject to the provisions of the Reorganization Act of the 1936 General Assembly, for which the specific appropriation is herein listed, excepting those listed in parts II and III of this Budget Act, for the following purposes:

### 1. INDEPENDENT AGENCIES

(a) *Legislative Sessions.* For ordinary recurring expenses of operation, \$5,000.00.

(b) *Legislative Council.* For ordinary recurring expenses of operation, \$5,000.00.

(c) *The Council of State Governments.* For aiding in defraying expenses of this agency, \$250.00.

(d) *Board of Election Commissioners.* For ordinary expenses of operation, \$500.00.

(e) *Railroad Commission.* For ordinary recurring expenses of operation, \$18,000.00.

### 2. LIEUTENANT GOVERNOR

(a) *Lieutenant Governor.* For ordinary recurring expenses of operation, \$500.00.



## 3. JUDICIARY AND COURT COSTS

(a) *Court of Appeals*. For ordinary recurring expenses of operation, \$34,000.00.

(b) *Clerk of Court of Appeals*. For ordinary recurring expenses of operation, \$16,000.00.

(c) *Judicial Council*. For ordinary recurring expenses of operation, \$800.00.

(d) *Clerks' Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Fund, Commissions on Fines and Forfeitures*. For ordinary recurring expenses of operation of the laws applicable to Clerks' Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, and Commissions on Fines and Forfeitures, \$1,315,300.00.

(e) *Salaries—Judges and Commonwealth's Attorneys*. For ordinary recurring expenses of operation, \$275,000.00.

(f) *Return of Escaped Convicts*. For ordinary recurring expenses of operation in paying for return of escaped convicts authorized by the Governor which have not been previously paid, \$3,000.00.

(g) *Rewards*. For paying of rewards authorized by the Governor of the Commonwealth, \$100.00.

## 4. EXECUTIVE DEPARTMENT

(a) *Governor*. For ordinary recurring expenses of operation, \$16,000.00.

(b) *Executive Cabinet*. For ordinary recurring expenses of operation, \$4,000.00

(c) *Contingent Fund*. For ordinary recurring contingent and maintenance expenses of operation, \$6,000.00.

(d) *General Emergency Fund*. For meeting ordinary recurring and extraordinary expenses deemed emergencies by the Governor of the Commonwealth and to be expended by the Governor to meet any emergency that may arise, which requires the expenditure of any part of said fund, \$200,000.00.

## 5. SECRETARY OF STATE

(a) *Secretary of State*. For ordinary recurring expenses of operation, \$19,300.00.

(b) *Land Office*. For ordinary recurring expenses of operation, \$1,200.00.

## 6. DEPARTMENT OF LAW

(a) *Attorney General*. For ordinary recurring expenses of operation, \$38,000.00.

(b) *Cost of Suits*. For extraordinary expenses of operation and paying Clerks, Sheriffs, Public Officials, and other necessary expenses in discharging the State's obligation in prosecuting in the interest of the State as required by law and subject to approval of the Department of Finance, \$8,000.00

## 7. DEPARTMENT OF TREASURY

(a) *State Treasurer*. For ordinary recurring expenses of operation, \$31,000.00.

(Of this amount, no sum shall be used for printing checks used for the State Highway Department and Old Age Assistance.)

(b) *Custodian of Securities*. For ordinary recurring expenses of operation, \$600.00.

## 8. AUDITOR OF PUBLIC ACCOUNTS

(a) *Auditor of Public Accounts*. For ordinary recurring expenses of operation, \$50,000.00.

## 9. DEPARTMENT OF FINANCE

(a) *Office of the Commissioner, Division of the Budget, Division of Personnel Efficiency, Division of Accounts and Control, Division of Post-Audit, and Division of Purchases and Public Property*. For ordinary recurring expenses of operation of the various divisions within the Department of

Finance and the administration of Confederate Pensions, and administration of Public Printing, \$245,992.00.

(b) For extraordinary expenses and capital outlay, \$5,000.00.

(c) *Public Printing Costs (Contractual Services)*. For ordinary recurring expenses of paper and printing costs not a specific charge against other budget units, \$16,000.00.

(d) *Public Record Books (Paper and Printing)*. For ordinary recurring expenses necessary in the purchase and replacement of public record books during the fiscal year, \$20,925.00.

(e) *Registration Books and Supplies*. For ordinary recurring expenses in purchasing additional registration books and supplies as required by the State-wide Registration Act of 1936 Regular Session, \$500.00.

(f) *Paper for Printing Election Ballots*. For ordinary recurring expenses in furnishing paper for ballots for State elections as required by law, \$8,000.00.

(g) *Paper (Revolving Fund)*. To be used for the purchase of paper to be held in stock until charges for paper used by the budget classes are made against the various budget units, \$20,000.00.

(h) *Postage (Revolving Fund)*. To be used for the purchase of postage to be held in stock until charges for postage used by the budget classes are made against the various budget units, \$10,000.00.

(i) *Confederate Pensions*. For ordinary recurring expenses in paying pensions now provided for by law, \$160,000.00.

(j) *Interest on Warrants*. For ordinary recurring expenses of interest due on outstanding interest-bearing warrants against the Commonwealth, \$275,000.00.

## 10. DEPARTMENT OF REVENUE

(a) *Commissioner of Revenue.* For ordinary recurring expenses of the various Divisions of the Department of Revenue, \$320,000.00.

(b) *Division of Alcoholic Control.* For the ordinary recurring expenses of operation, \$42,000.00.

## 11. DEPARTMENT OF REVENUE, MISCELLANEOUS REVENUE AGENCIES

(a) *County Tax Commissioners.* For ordinary recurring expenses of operation, \$307,000.00.

(b) *County Boards of Supervisors.* For ordinary recurring expenses of operation, \$26,500.00.

## 12. DEPARTMENT OF CONSERVATION

(a) *Director of Conservation.* For ordinary recurring expenses of operation, \$6,500.00.

(b) *Division of State Parks.* For ordinary recurring expenses of operation, \$30,000.00.

(Of this amount \$10,000.00 shall be earmarked to be expended exclusively in the operation of the Old Kentucky Home Park. Said Home to retain investments now existing for use and benefit of Old Kentucky Home.)

(c) *Division of Forestry.* For ordinary recurring expenses of operation, \$12,000.00.

(d) *Division of Publicity.* For ordinary recurring expenses of operation, \$20,000.00.

## 13. DEPARTMENT OF MILITARY AFFAIRS

(a) *Adjutant General.* For ordinary recurring expenses of operation, \$30,000.00.

(b) *Veterans' Division.* For ordinary recurring expenses of operation, \$18,000.00.

(c) *Division of Armories.* For ordinary recurring expenses of operation, \$30,000.00.

#### 14. DEPARTMENT OF AGRICULTURE, LABOR AND STATISTICS

(a) *Division of Agriculture, Labor and Statistics.* For ordinary recurring expenses of operation, \$37,500.00.

(Of this amount each item shall not exceed the amounts specified below.)

(a1) Salaries of Division of Agriculture, \$10,500.00.

(a2) Office and traveling expenses of the Division of Agriculture, \$5,000.00.

(a3) Inspection of Tobacco Warehouses, \$6,000.00.

(It is the intentions of the Legislature to discontinue and repeal the appropriation for eradication of the corn-borer.)

(a4) Salaries and other recurring expenses of the Division of Labor and Statistics, \$16,000.00.

(b) *State Board of Agriculture.* For ordinary recurring expenses of operation and extraordinary expenses designated by law, \$172,350.00.

(Of this amount each item shall not exceed the amount specified below.)

(b1) Expenses and per diem of Board Members, \$2,250.00.

(b2) Expenses of Live Stock Sanitary Board, \$20,000.00.

(b3) Diseases of Live Stock, \$1,500.00.

(b4) Bang's Disease, \$4,000.00.

(b5) Premiums at Kentucky State Fair from animal licenses, \$15,000.00.

(b6) Operation of Kentucky State Fair, \$75,375.00.

(The Department of Finance shall provide for the establishing of a Revolving Fund sufficient to meet the necessary operating current operating expense of the Fair for the period covering the week of the Fair.)

(b7) For extraordinary expenses and capital outlay, \$4,225.00.



(b8) Premiums for Kentucky State Fair, \$30,000.00.

(b9) Retiring a part of the M & M Building bonded indebtedness maturing November 1, 1938, \$15,000.00.

(The interest on said bonds to be paid from receipts accruing from fees and concessions of said building.)

(b10) Paying Premiums for Boys and Girls Club Work and Bourbon Stock Yard Junior Club, and for the promotion and encouragement of 4-H Club Work, for Kentucky products paid to Kentuckians, \$5,000.00.

## 15. DEPARTMENT OF HEALTH

(a) *Department of Health—General.* For ordinary recurring expenses of operation \$150,000.00.

(b) *Prevention of Blindness.* For ordinary recurring expenses of operation, \$2,500.00.

(c) *Laboratories.* For ordinary recurring expenses of operation, \$5,000.00.

(d) *County Health Units and Departments.* For ordinary recurring expenses of operation, \$244,500.00.

(e) *Visiting Nurses.* For ordinary recurring expenses of operation, \$6,000.00.

(f) *Hazelwood Sanatorium.* For ordinary recurring expenses of operation, \$44,000.00.

(g) *Interest on Bonds.* For extraordinary expenses of interest on Hazelwood Sanatorium bonds, \$8,400.00.

(h) *Kentucky Crippled Children's Commission.* For ordinary recurring expenses of operation, \$85,000.00.

## 16. DEPARTMENT OF WELFARE

(a) *Commissioner of Welfare.* For ordinary recurring expenses of operation of the charitable and penal institutions and the administration of the Department of Welfare including probation and parole, \$1,700,000.00.

(b) *Home for Incurables.* For ordinary recurring expenses of operation, \$15,000.00.

(c) *Colored Red Cross Hospital*. For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$4,000.00.

(d) *Kentucky Children's Home Society—White*. For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$60,000.00.

(e) *Kentucky Children's Home Society—Colored*. For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$20,000.00.

(f) *Division of Public Assistance*. For ordinary expenses of operation and cooperation with the Federal Government under the Social Security Act approved August 14, 1935, and for the administration of Old Age Assistance, Chapter 94, 1936 Regular Session, and cooperation with Child Welfare and Aid to the Blind programs, \$3,000,000.00.

(g) *New Lands and Buildings*. For extraordinary recurring expenses and capital outlay, \$1,280,437.45.

(Of this amount \$250,000.00 shall be used for the purpose of erecting a general office building; \$200,000.00 may be used for the restoration, repairing, replacements, equipment, and improvements of the charitable and penal institutions under the Department of Welfare. The remainder, \$830,437.45 shall be used for erection and equipment of buildings for the use of the Department of Welfare for the confinement of convicts and the establishment of hospitals for the insane, feeble-minded, and epileptics of the State.)

(h) *Emergency Relief*. For extraordinary expenses which constitute special emergencies and/or for relief of indigent persons in the Commonwealth not otherwise provided for by any other agency of the State. Said Fund to be administered and expended by the Governor of the Commonwealth, \$150,000.00.

(i) *Conveyance of Lunatics*. For ordinary recurring expenses of operation, \$9,000.00.

(j) *Pauper Idiots*. For ordinary recurring expenses of operation, \$60,000.00.

(k) *Julius Marx Sanitorium*. For ordinary recurring expenses of operation as provided for in Section 2061a-28, Kentucky Statutes, \$9,000.00.

## 17. DEPARTMENT OF EDUCATION

(a) *Superintendent of Public Instruction*. For ordinary recurring expenses of operation, \$60,000.00.

(b) *Division of Certification*. For ordinary recurring expenses of operation, \$15,000.00.

(c) *State Board of Education*. For ordinary recurring expenses of operation, \$15,000.00.

(d) *State Textbook Commission*. For ordinary recurring expenses of operation, \$500.00.

(e) *Common School per Capita Fund*. For the payment of teachers' salaries and other expenses incidental to the operation and maintenance of the public schools of the State, \$9,461,061.84.

(f) For interest on State School Bonds, as provided by the Constitution for the support of Common Schools, which amount shall be used to supplement the appropriation for Common School Per Capita, \$138,938.16.

(g) *Free Textbooks*. For the purchase of textbooks as provided for in Chapter 48, Acts of 1928, \$500,000.00.

(h) *War Orphan and Scholarship Fund*. For the purpose of carrying out of the provisions of Sections 4376b-11, and 4527-31, Kentucky Statutes, \$1,400.00.

(i) *Vocational Education*. For ordinary recurring expenses of operation under the provisions of existing laws, \$25,000.00.

(j) *Vocational Rehabilitation*. For ordinary recurring expenses of operation in rehabilitating persons disabled in industry or otherwise, \$21,380.55.

(k) *Kentucky State Industrial College*. For ordinary recurring expenses of operation, \$110,000.00.

(kl) For extraordinary expenses and capital outlay, \$50,000.00.

(This entire amount shall be used for the purpose of erecting a dormitory at the Institution. Expenditure shall be made in accordance with the Reorganization Act governing the expenditure of funds for capital outlay purposes and may be treated as a continuing appropriation.)

(l) *College Tuition for Negroes.* For extraordinary expenses of paying college tuition of Negro students required to go out of the State to obtain higher educational training, \$5,000.00.

(m) *Kentucky School for the Blind—White.* For ordinary recurring expenses of operation, \$61,500.00.

(n) *Kentucky School for the Blind—Colored.* For ordinary recurring expenses of operation, \$7,000.00.

(o) *Kentucky School for the Blind—Workshop for the Adult Blind.* For ordinary recurring expenses of operation, \$14,800.00.

(p) *Kentucky School for the Deaf—White.* For ordinary recurring expenses of operation, \$110,000.00.

(q) *Kentucky School for the Deaf—Colored.* For ordinary recurring expenses of operation, \$8,500.00.

## 18. UNIVERSITY OF KENTUCKY

(a) *Division of Colleges.* For ordinary recurring expenses of operation, \$775,000.00.

(a1) For extraordinary expenses and capital outlay, \$158,000.00.

(Of this amount each item shall not exceed the amounts specified below.)

Repairs to Buildings, \$8,000.00.

Library Equipment, \$30,000.00.

Scientific Laboratory Equipment, \$60,000.00.

Engineering Equipment, \$60,000.00.

(b) *College of Agriculture.* For ordinary recurring expenses of operation, \$24,000.00.

(c) *Summer School Session.* For ordinary recurring expenses of operation, \$8,000.00.

(d) *Experiment Station.* For ordinary recurring expenses of operation, \$48,000.00.

(e) *Service Laboratories.* For ordinary recurring expenses of operation, \$21,000.00.

(f) *Nursery Inspection.* For ordinary recurring expenses of operation, \$2,000.00.

(g) *Princeton Sub-Station.* For ordinary recurring expenses of operation, \$14,000.00.

(h) *Quicksand Sub-Station.* For ordinary recurring expenses of operation, \$14,000.00.

(i) *Agricultural Extension Work.* For ordinary recurring expenses of operation, \$120,000.00.

## 19. STATE TEACHERS' COLLEGES

(a) *Eastern Kentucky State Teachers College.* For ordinary recurring expenses of operation, \$241,000.00.

(a1) For extraordinary expenses and capital outlay, \$79,000.00.

(Of this amount each item shall not exceed the amounts specified below.)

Repairs and improvements of buildings, \$4,000.00.

New Building, \$75,000.00.

(This sum may be combined with a like appropriation for the fiscal year ending June 30, 1940, and for contractual purposes be obligated, but the appropriations for the fiscal year 1939-40 shall not be actually disbursed until after July 1, 1939.)

(b) *Morehead State Teachers College.* For ordinary recurring expenses of operation, \$194,000.00.

(c) *Murray State Teachers College.* For ordinary recurring expenses of operation, \$219,400.00.

(c1) For extraordinary expenses and capital outlay, \$37,500.00.

(This sum may be combined with a like appropriation for the fiscal year ending June 30, 1940, and for contractual pur-



poses be obligated, but the appropriations for the fiscal year 1939-40 shall not be actually disbursed until after July 1, 1939.)

(d) *Western Kentucky State Teachers College*. For ordinary recurring expenses of operation, \$340,000.00.

(d1) For extraordinary expenses and capital outlay \$40,000.00.

## 20. DEPARTMENT OF LIBRARY AND ARCHIVES

(a) *Law Librarian*. For ordinary recurring expenses of operation, \$8,300.00.

(b) *Law Library—Books*. For ordinary recurring expenses of operation as provided for under Section 2440, Kentucky Statutes, \$3,500.00.

(c) *Library Sales Account—Kentucky Reports*. For extraordinary recurring expenses of paying the costs of publishing the Kentucky Reports and pamphlets of opinions of the Court of Appeals, as provided for under Section 955a-9, Kentucky Statutes, \$15,800.00.

(d) *Distribution and Repair of Books*. For ordinary recurring expenses of operation, \$500.00.

(e) *Division of Library Extension*. For ordinary recurring expenses of operation, \$10,000.00.

(f) *Kentucky State Historical Society*. For ordinary recurring expenses of operation, \$7,715.00.

## 21. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Division of Athletic Control*. For ordinary recurring expenses of operation, \$6,500.00.

(b) *Division of Banking and Small Loans*. For ordinary recurring expenses of operation, \$45,000.00.

(c) *Division of Insurance*. For ordinary recurring expenses of operation, \$90,000.00.

(d) *Division of Securities*. For ordinary recurring expenses of operation, \$25,000.00.

## 22. DEPARTMENT OF INDUSTRIAL RELATIONS

(a) *Office of the Commissioner.* For ordinary recurring expenses of operation, \$9,000.00.

(b) *Workmen's Compensation Board.* For ordinary recurring expenses of operation, \$60,000.00.

(c) *Kentucky State Employment Service.* For ordinary recurring expenses of operation, \$30,000.00.

## 23. DEPARTMENT OF MINES AND MINERALS

(a) *Division of Coal Mining.* For ordinary recurring expenses of operation, \$25,000.00.

(b) *Division of Geology.* For ordinary recurring expenses of operation, \$12,000.00.

24. APPROPRIATIONS NOT OTHERWISE  
CLASSIFIED

(a) *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of a Court Order or a written opinion from the Attorney General and approved by the Commissioner of Finance, \$10,000.00.

(b) *Bonds of Elective Officers.* For payment of premiums on bonds of State officials who are required by law to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State, \$2,500.00.

(c) *Judgments.* For the payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General, \$10,000.00.

(d) *Interest on Land Grant Bonds.* For paying the interest semi-annually on A. and M. Bonds as provided by Section 4591a, Kentucky Statutes, \$9,900.00.

(e) *Frankfort Cemetery.* For the purpose of assisting

in the care of graves in the Frankfort Cemetery to be paid to persons authorized by law to receive same, \$250.00.

(f) *Statutes and Codes for Courts.* For paying for replacements and purchase of statutes and codes for the Courts as provided in Section 2432, Kentucky Statutes, \$3,000.00.

(g) *Jefferson County Fees.* For paying various officials of Jefferson County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, \$438,000.00.

(h) *Kenton County Fees.* For paying various officials of Kenton County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, \$81,900.00.

## PART II

### 25. DEPARTMENT OF HIGHWAYS

(a) *State Road Fund.* Established for the purpose of paying all cost of operation and maintenance of the State Highway Department and for carrying on its activities for the fiscal year beginning April 1, 1938, and ending March 31, 1939, there is hereby appropriated to the State Road Fund all the funds now realized out of the State revenues, authorized now by law or that may hereafter be authorized by law, or any additional or other revenues that may be imposed by law for the exclusive benefit of public roads and all funds realized from the Motor Vehicle Registration Tax, the Gasoline Tax, and the Tax on Other Motor Fuels, now collected by law or that may hereafter be imposed or collected by law for the benefit of said department and its activities. Such receipts and revenue shall constitute the State Road Fund.

There is hereby appropriated to the State Highway Department all monies received and placed to the credit of the

State Road Fund during the fiscal year ending March 31, 1939, not otherwise appropriated in this Act, for use and benefit of the State Road system in construction, maintenance, and repair of roads.

(b) *Divisions of Records, Equipment, Maintenance, and Construction.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, for ordinary recurring administrative expenses of operation the sum of \$600,000.00.

(c) *Division of Rural Highways.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, to be used by the Division of Rural Highways for the improvement, reconstruction, and maintenance of County roads and bridges which have not been accepted by the State Highway Commission for maintenance. Said appropriation to be expended in accordance with Chapter 5, Acts of the General Assembly, 1936, \$2,000,000.00.

(Of this amount, not more than 10 per cent may be used for administrative purposes for the Rural Highway Division in the Highway Department.)

(d) *Office Buildings.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, for the extraordinary expense and capital outlay in erecting a State office building in which the State Department of Highways and its divisions will be housed, \$250,000.00.

(e) *Division of Highway Patrol.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, for the ordinary recurring expenses of operation of the Highway Patrol, as provided by law, \$300,000.00.

## 26. DEPARTMENT OF REVENUE

(a) *Administration of Gasoline Tax, Motor Vehicle Registration Tax and Tax on Other Motor Fuels.* There is hereby appropriated out of the State Highway Road Fund

to the Department of Revenue for the fiscal year ending June 30, 1939, for ordinary recurring expenses of operating, administering and enforcing the laws pertaining to the Gasoline Tax, the laws pertaining to the Motor Vehicle Registration Tax, and the laws pertaining to Other Motor Fuels, \$130,000.00.

## 27. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Motor Transportation.* There is hereby appropriated out of the State Highway Fund for the fiscal year ending June 30, 1939, for the use of the Department of Business Regulations, Division of Motor Transportation, for ordinary recurring expenses of operation, \$52,000.00.

## PART III

### REVOLVING, TRUST AND AGENCY FUNDS

There is hereby appropriated to the various professional boards or other boards, commissions, institutions, agencies, or subdivisions of the State Government for the fiscal year ending June 30, 1939, all of the fees (which include fees for board and room, athletics, student activities) and rentals, admittances, sales, licenses collected by law, contributions, gifts, subventions, and other miscellaneous receipts produced by any of the following professional boards, or other boards, commissions, institutions, agencies, and subdivisions of the State Government, for the use and benefit of each of the below-named professional boards, or other boards, commissions, institutions, agencies and subdivisions of the State Government, the receipts which are received by each of the respective professional boards, or other boards, commissions, institutions, agencies or subdivisions of the State Government; which receipts are placed to the credit of a Revolving Fund (Minor fund) out of which shall be established separate Revolving Fund Accounts for the use and benefit of each separate professional Board or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government. The fund accredited to each shall not exceed at any



time the amount of receipts received from the separate professional board of other boards, commission, institution, agency, and/or subdivision of the State Government, credited to the Revolving Fund by each professional Board or other board, commission, institution, agency, and/or subdivision of the State Government. Withdrawal from the said Revolving Fund by each of the said professional boards, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government may be made when and if needed for ordinary recurring expenses of operation, properly approved by the Department of Finance, Division of Accounts and Control, and said requisitions shall not be approved unless there is to the credit of the Revolving Fund of such professional Board, or other board, commission, institution, agency and/or subdivision of the State Government, a free and unencumbered sum equal to the amount of the requisitions. The total amount any agency may requisition from the Revolving Fund Account through the Department of Finance, shall not during the fiscal year ending June 30, 1939, exceed the amount placed to the credit of the Revolving Fund, out of which has been established a Revolving Fund Account for each separate agency during the fiscal year July 1, 1938 to June 30, 1939, inclusive, plus any balance which said professional board, or other board, commission, institution, agency, and/or subdivision of the State Government may have had transferred from the preceding year on or before September 30, of the then current fiscal year by the Department of Finance.

#### DEPARTMENT OF TREASURY—

Division of Louisville Securities Office.

#### DEPARTMENT OF FINANCE—

Division of Post Audit.

Duplicating Section.

Truck Licenses—County Portion. There shall be credited of this fund for the purpose of distribution to coun-

ties such portion of truck licenses as is now provided by law, at such times as the Department of Finance may order.

#### DEPARTMENT OF REVENUE—

Operators' Licenses. There shall be credited to this fund such receipts as specifically provided for under Section 2739m-34, Kentucky Statutes.

Back Tax Section. (Delinquent Taxes.) There shall be credited to this Revolving Fund such fees or revenues as provided for by Section 4257a-5.

#### DEPARTMENT OF CONSERVATION—

Division of State Parks.

Division of Forestry (Federal).

Division of Game and Fish Commission.

Division of Publicity.

#### DEPARTMENT OF HEALTH—

Department of Health—General.

Hazelwood Sanitorium.

Kentucky Crippled Children's Commission.

#### DEPARTMENT OF WELFARE—

Division of Hospitals and Mental Hygiene.

Division of Corrections

Division of Child Welfare.

Division of Public Assistance.

#### DEPARTMENT OF EDUCATION—

Division of General Education Board.

Jeannes Fund.

Rosenwald Fund.

Slater Fund.

George-Deen Fund.

Smith-Hughes Fund.

Vocational Rehabilitation—Federal.

Vocational Rehabilitation—Private.  
Kentucky State Industrial College.  
State Board of Education—Investment Fund.  
School for Deaf.  
Workshop for the Adult Blind.  
University of Kentucky.  
Eastern Kentucky State Teachers College.  
Morehead State Teachers College.  
Murray State Teachers College.  
Western Kentucky State Teachers College.

#### DEPARTMENT OF LIBRARY AND ARCHIVES—

Kentucky Historical Society.  
Library Extension Division.

#### DEPARTMENT OF BUSINESS REGULATIONS—

The salary of the secretary and other recurring expenses of operation for the Division of Supervision of Professional Regulation in the Department of Business Regulation shall be fixed by the Department of Finance, and shall be paid by assessments made against the funds of the professional agencies and boards under the Department of Business Regulation. The assessments shall be determined and fixed by the Department of Finance.

State Board of Accountancy.

State Board of Examiners and Registration of Architects.

State Board of Barber and Beautician Examiners.

State Board of Chiropractic Examiners.

State Board of Dental Examiners.

State Board of Embalmers.

State Board of Pharmacy.

State Board of Examiners of Trained Nurses.

State Board of Veterinary Examiners.

Insurance Examiners Expense.

State Board of Bar Examiners.

## PUBLIC SERVICE COMMISSION—

Out of fees collected by the Public Service Commission as provided by Chapter 145, Regular Session of the 1934 General Assembly, a sum of \$75,000.00 for the fiscal year ending June 30, 1939, is appropriated for the payment of salaries of the commissioners, employees, council for commissioners, secretary, and other ordinary recurring expenses necessary to enable the Commission to perform all of the functions and duties of said Commission as provided by law.

## KENTUCKY REAL ESTATE BOARD.

## DEPARTMENT OF INDUSTRIAL RELATIONS—

Division of Unemployment Compensation (Federal).  
Kentucky State Employment Service.

JEFFERSON COUNTY MASTER COMMISSIONERS.  
NOT OTHERWISE CLASSIFIED—

## Truck License Refunds.

There is hereby appropriated out of the General Expenditure Fund for the fiscal year beginning July 1, 1939, and ending June 30, 1940, the following sums for the following officers, departments, boards, commissions, institutions and subdivisions of the State Government printing of county record books, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees, and any and all other agencies of the State Government of the Commonwealth of Kentucky, subject to the provisions of the Reorganization Act of the 1936 General Assembly, for which these specific appropriations are herein listed, excepting those listed in Parts II and III of this Budget Act for the year ending June 30, 1940, for the following purposes:

## PART I

## 1. INDEPENDENT AGENCIES

(a) *Legislative Sessions.* For ordinary recurring expenses of operation, \$150,000.00.

(b) *Legislative Council*. For ordinary recurring expenses of operation, \$5,000.00.

(c) *The Council of State Governments*. For aiding in the defraying expenses of this agency, \$250.00.

(d) *Board of Election Commissioners*. For ordinary recurring expenses of operation, \$500.00.

(e) *Presidential Electors*. Per Diem and ordinary recurring expenses of operation, \$700.00.

(f) *Railroad Commission*. For ordinary recurring expenses of operation, \$18,000.00.

## 2. LIEUTENANT GOVERNOR

(a) *Lieutenant Governor*. For ordinary recurring expenses of operation, \$1,000.00.

## 3. JUDICIARY AND COURT COSTS

(a) *Court of Appeals*. For ordinary recurring expense of operation, \$34,000.00.

(b) *Clerk of Court of Appeals*. For ordinary recurring expense of operation, \$16,000.00.

(c) *Judicial Council*. For ordinary recurring expense of operation, \$800.00.

(d) *Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, Commissions on Fines and Forfeitures*. For ordinary recurring expense of operation of the laws applicable to Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, and Commissions on Fines and Forfeitures, \$1,315,300.00.

(e) *Salaries of Judges and Commonwealth Attorneys*. For ordinary recurring expense of operation, \$275,000.00.

(f) *Return of Escaped Convicts*. For ordinary recurring expense of operation for paying for returning escaped convicts authorized by the Governor, which have not been previously paid, \$3,000.00.

(g) *Rewards*. For payment of rewards authorized by the Governor of the Commonwealth, \$100.00.



## 4. EXECUTIVE DEPARTMENT

(a) *Governor*. For ordinary recurring expense of operation, \$16,000.00.

(b) *Executive Cabinet*. For ordinary recurring expense of operation, \$4,000.00.

(c) *Contingent Fund*. For ordinary recurring contingent and maintenance expense of operation, \$6,000.00.

(d) *General Emergency Fund*. For meeting ordinary recurring and extraordinary expenses deemed emergencies by the Governor of the Commonwealth to be expended by the Governor to meet any emergency that may arise, which requires the expenditure of any part of said fund, \$200,000.00.

## 5. DEPARTMENT OF STATE

(a) *Secretary of State*. For ordinary recurring expense of operation, \$19,300.00.

(b) *Land Office*. For ordinary recurring expense of operation, \$1,200.00.

## 6. DEPARTMENT OF LAW

(a) *Attorney General*. For ordinary recurring expense of operation, \$38,000.00.

(b) *Cost of Suits*. For extraordinary expense of operation, and paying clerks, sheriffs, public officials, and other necessary expenses in discharging the State's obligation in prosecuting in the interest of the State, as required by law, and subject to the approval of the Department of Finance, \$8,000.00.

## 7. DEPARTMENT OF TREASURY

(a) *State Treasurer*. For ordinary recurring expense of operation, \$31,000.00.

Of this amount no sum shall be used for printing checks used by the State Highway Department, and for paying re-

cipients of Old Age Assistance. These costs shall be borne by the respective departments.

(b) *Custodian of Securities*. For ordinary recurring expense of operation, \$600.00.

## 8. AUDITOR OF PUBLIC ACCOUNTS

(a) *Auditor of Public Accounts*. For ordinary recurring expense of operation, \$48,000.00.

Of this amount, each item shall not exceed the amount specified below:

To be expended by the Auditor of Public Accounts from July 1, 1939, to the first Monday in January, 1940, \$25,000.00.

To be expended by the Auditor of Public Accounts from the first Monday in January, 1940, to June 30, 1940, \$23,000.00

## 9. DEPARTMENT OF FINANCE

(a) *Office of the Commissioner, Division of the Budget, Division of Personal Efficiency, Division of Accounts and Control, Division of Post-Audit, Division of Purchases and Public Property*. For ordinary recurring expenses of operation of the various divisions within the Department of Finance, and the administration of Confederate Pensions, and Public Printing, \$246,799.00.

(a1) For extraordinary expense and capital outlay, \$5,000.00.

(b) *Public Printing Costs (Contractual Services)*. For ordinary recurring expenses of paper and printing costs, not a specific charge against other budget units, \$16,000.00.

(c) *Public Record Books (Paper and Printing)*. For ordinary recurring expenses necessary in the purchase and replacement of public record books during the fiscal year ending June 30, 1940, \$20,925.00.

(d) *Registration Books and Supplies*. For ordinary recurring expenses in purchasing additional registration books and supplies as required by the State-wide Registration Act of 1936 Regular Session, \$500.00.

(e) *Paper for Printing Election Ballots.* For ordinary recurring expenses in furnishing paper for ballots for State elections as required by law, \$8,000.00.

(f) *Paper (Revolving Fund).* To be used for the purchase of paper to be held in stock until charges for paper used by the budget classes are made against the various budget units, \$20,000.00.

(g) *Postage (Revolving Fund).* To be used for the purchase of postage to be held in stock until charges for postage used by the budget classes are made against the various budget units, \$10,000.00.

(h) *Confederate Pensions.* For ordinary recurring expense in paying pensions now provided for by law, \$160,000.00.

(i) *Interest on Warrants.* For ordinary recurring expense of interest due on outstanding interest-bearing warrants against the Commonwealth, \$190,000.00.

## 10. DEPARTMENT OF REVENUE

(a) *Commissioner of Revenue.* For ordinary recurring expense of various divisions of the Department of Revenue, \$320,000.00.

(b) *Division of Alcoholic Control.* For ordinary recurring expense of operation, \$42,000.00.

## 11. DEPARTMENT OF REVENUE

### MISCELLANEOUS REVENUE AGENCIES

(a) *County Tax Commissioners.* For ordinary recurring expense of operation, \$307,000.00.

(b) *County Boards of Supervisors.* For ordinary recurring expense of operation, \$26,500.00.

## 12. DEPARTMENT OF CONSERVATION

(a) *Director of Conservation.* For ordinary and recurring expense of operation, \$6,500.00.

(b) *Division of State Parks.* For ordinary recurring expense of operation, \$30,000.00.

Of this \$10,000.00 shall be ear-marked to be expended exclusively in the operation of the Old Kentucky Home Park. Said Home to retain investments now existing for use and benefit of the Old Kentucky Home.

(c) *Division of Forestry.* For ordinary recurring expenses of operation, \$12,000.00.

(d) *Division of Publicity.* For ordinary recurring expenses of operation, \$20,000.00.

### 13. DEPARTMENT OF MILITARY AFFAIRS

(a) *Adjutant-General.* For ordinary recurring expenses of operation, \$30,000.00.

(b) *Veterans' Division.* For ordinary recurring expense of operation, \$18,000.00.

(c) *Division of Armories.* For ordinary recurring expenses of operation, \$30,000.00.

### 14. DEPARTMENT OF AGRICULTURE, LABOR AND STATISTICS

(a) *Division of Agriculture, Labor and Statistics.* For ordinary recurring expenses of operation, \$29,500.00.

(Of this amount each item shall not exceed the amounts specified below.)

(a1) Salaries of Division of Agriculture, \$10,500.00.

(a2) Office and traveling expenses of Division of Agriculture, \$5,000.00.

(a3) Inspection of Tobacco Warehouses, \$6,000.00.

(It is the intentions of the Legislature to discontinue and repeal the appropriation for eradication of the cornborer.)

(a4) Salaries and other recurring expenses of the Division of Labor and Statistics, \$8,000.00.

(This appropriation is made for the period of July 1, 1939, to the first Monday in January, 1940, at which time the duties and functions will by law be transferred to the Department of Industrial Relations.

(b) *State Board of Agriculture.* For ordinary recurring expenses of operation and extraordinary expenses designated by law, \$172,350.00.

Of this amount each item shall not exceed the amount specified below:

(b1) Expenses and per diem of Board Members, \$2,250.00.

(b2) Expenses of Live Stock Sanitary Board, \$20,000.00.

(b3) Diseases of Live Stock, \$1,500.00.

(b4) Bang's Disease, \$4,000.00.

(b5) Premiums at Kentucky State Fair from animal licenses, \$15,000.00.

(b6) Operation of Kentucky State Fair, \$75,375.00.

(The Department of Finance shall provide for the establishing of a Revolving Fund sufficient to meet the necessary current operating expense of the Fair for the period covering the week of the Fair.)

(b7) For extraordinary expenses and capital outlay, \$4,225.00.

(b8) Premiums for Kentucky State Fair, \$30,000.00.

(b9) Retiring a part of the M. & M. Building Bonded indebtedness maturing November 1, 1939, \$15,000.00.

(The interest on said bonds to be paid from receipts accruing from fees and concessions of said buildings.)

(b10) Paying Premiums for Boys and Girls Club Work and Bourbon Stock Yard Junior Club, and for the promotion and encouragement of 4-H Club Work, for Kentucky Products paid to Kentuckians, \$5,000.00.

## 15. DEPARTMENT OF HEALTH

(a) *Department of Health—General.* For ordinary recurring expenses of operation, \$150,000.00.

(b) *Prevention of Blindness.* For ordinary recurring expenses of operation, \$2,500.00.

(c) *Laboratories.* For ordinary recurring expenses of operation, \$5,000.00.



(d) *County Health Units and Departments.* For ordinary recurring expenses of operations, \$244,500.00.

(e) *Visiting Nurses.* For ordinary recurring expenses of operation, \$6,000.00.

(f) *Hazelwood Sanitorium.* For ordinary recurring expenses of operation, \$44,000.00.

(g) *Interest on Bonds.* For extraordinary expense of interest on Hazelwood Sanitorium Bonds, \$8,400.00.

(h) *Kentucky Crippled Children's Commission.* For ordinary recurring expenses of operation, \$85,000.00.

## 16. DEPARTMENT OF WELFARE

(a) *Commissioner of Welfare.* For ordinary recurring expenses of operation of the charitable and penal institutions and the administration of the Department of Welfare, including probation and parole, \$1,700,000.00.

(b) *Home for Incurables.* For ordinary recurring expenses of operation, \$15,000.00.

(c) *Colored Red Cross Hospital.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$4,000.00.

(d) *Kentucky Children's Home Society—White.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$60,000.00.

(e) *Kentucky Children's Home Society—Colored.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$20,000.00.

(f) *Division of Public Assistance.* For ordinary recurring expenses of operation, and in cooperation with the Federal Government under the Social Security Act approved August 14, 1935, and for the administration of Old Age Assistance under House Bill No. 427, 1936 Regular Session, and in cooperation with Child Welfare, and Aid to the Blind programs, \$3,000,000.00.

(g) *New Lands and Buildings.* For extraordinary expenses and capital outlay, \$1,369,561.55.

(Of this amount \$200,000.00 may be used for the restoration, repair, replacements, equipment and improvement of the charitable and penal institutions under the Department of Welfare. The remainder to be used for erecting and equipping new Welfare Institutions.)

(h) *Emergency Relief*. For extraordinary expenses which constitute special emergencies and for the relief of indigent persons in the Commonwealth not otherwise provided for by any other agency of the State, said fund to be administered and expended by the Governor of the Commonwealth, \$150,000.00.

(i) *Conveyance of Lunatics*. For ordinary recurring expenses of operation, \$9,000.00.

(j) *Pauper Idiots*. For ordinary recurring expenses of operation, \$60,000.00.

(k) *Julius Marx Sanitorium*. For ordinary recurring expenses of operation as provided for in Section 2061a-28, Ky. Statutes, \$9,000.00.

## 17. DEPARTMENT OF EDUCATION

(a) *Superintendent of Public Instruction*. For ordinary recurring expenses of operation, \$60,000.00.

(b) *Division of Certification*. For ordinary recurring expenses of operation, \$15,000.00.

(c) *State Board of Education*. For ordinary recurring expenses of operation, \$15,000.00.

(d) *State Text-Book Commission*. For ordinary recurring expenses of operation, \$2,500.00.

(e) *Common School Per Capita Fund*. For the payment of Teachers' salaries, and other expense incidental to the operation and maintenance of the public schools of the State, \$9,561,061.84.

(f) *Interest on State School Bonds*. For payment as provided by the Constitution for the support of the Common Schools, which amount shall be used to supplement the appropriation for common school per capita, \$138,938.16.

(g) *Free Text Books.* For the purchase of text books as provided in Chapter 49, Acts of 1928, \$500,000.00.

(h) *War Orphan and Scholarship Fund.* For the purpose of carrying out the provisions of Sections 4376b-11 and 4527-31, Kentucky Statutes, \$1,400.00.

(i) *Vocational Education.* For ordinary recurring expenses of operation under the provision of existing laws, \$25,000.00.

(j) *Vocational Rehabilitation.* For ordinary recurring expenses of operation in rehabilitating persons disabled in industry, or otherwise, \$21,380.55.

(k) *Kentucky State Industrial College.* For ordinary recurring expense of operation, \$110,000.00.

(kl) For extraordinary expense and capital outlay, \$50,000.00.

This entire amount shall be used for the purpose of erecting a dormitory at the institution. Expenditure shall be made in accordance with the Reorganization Act governing the expenditure of funds for capital outlay purposes and may be anticipated for contractual purposes.

(l) *College Tuition for Negroes.* For extraordinary expenses of paying college tuition of Negro students required to go out of the State to obtain higher education training, \$5,000.

(m) *Kentucky School for the Blind—White.* For ordinary recurring expenses of operation, \$61,500.00.

(n) *Kentucky School for the Blind—Colored.* For ordinary recurring expense of operation, \$7,000.00.

(o) *Kentucky School for the Blind—Workshop.* For ordinary recurring expense of operation, \$14,800.00.

(p) *Kentucky School for the Deaf—White.* For ordinary recurring expense of operation, \$110,000.00.

(q) *Kentucky School for the Deaf—Colored.* For ordinary recurring expense of operation, \$8,500.00.

## 18. UNIVERSITY OF KENTUCKY

(a) *Division of Colleges.* For ordinary recurring expense of operation, \$775,000.00.

(a-1) For extraordinary expense of capital outlay, \$158,000.00.

Of this amount each item shall not exceed the amount specified below:

Repairs for Buildings, \$8,000.00.

Library Equipment, \$30,000.00.

Scientific Laboratory Equipment, \$60,000.00.

Engineering Equipment, \$60,000.00.

(b) *College of Agriculture.* For ordinary recurring expense of operation, \$24,000.00

(c) *Summer School.* For ordinary recurring expense of operation, \$8,000.00.

(d) *Experiment Station.* For ordinary recurring expense of operation, \$48,000.00.

(e) *Service Laboratory.* For ordinary recurring expense of operation, \$21,000.00.

(f) *Nursery Inspection.* For ordinary recurring expense of operation, \$2,000.00.

(g) *Princeton Sub-Station.* For ordinary recurring expense of operation, \$14,000.00.

(h) *Quicksand Sub-Station.* For ordinary recurring expense of operation, \$14,000.00.

(i) *Agriculture Extension Work.* For ordinary recurring expense of operation, \$120,000.00.

## 19. STATE TEACHERS COLLEGES

(a) *Eastern Kentucky State Teachers College.* For ordinary recurring expense of operation, \$241,000.00.

(a1) For extraordinary expenses and capital outlay, \$79,000.00.

Of this amount each item shall not exceed the amount specified below:

Repairs and improvement of buildings, \$4,000.00.

Erection of new buildings, \$75,000.00.

(This item may be anticipated for contractual purposes.)

(b) *Morehead State Teachers College*. For ordinary recurring expenses of operation, \$93,000.00.

(c) *Murray State Teachers College*. For ordinary recurring expenses of operation, \$219,400.00.

(c1) For extraordinary expenses and capital outlay, \$37,500.00.

(This amount may be anticipated for contractual purposes.)

(d) *Western Kentucky State Teachers College*. For ordinary recurring expenses of operation, \$340,000.00.

(d1) For extraordinary expense and capital outlay \$40,000.00.

## 20. DEPARTMENT OF LIBRARY AND ARCHIVES

(a) *Law Librarian*. For ordinary recurring expenses of operation, \$8,300.00.

(b) *Law Library—Books*. For ordinary recurring expenses of operation, as provided for under Section 2440, Kentucky Statutes, \$3,500.00.

(c) *Library Sales Account—Kentucky Reports*. For extraordinary expense of paying the costs of publishing the Kentucky Reports and pamphlets of opinions of the Court of Appeals, as provided for under Section 955a-9, Kentucky Statutes, \$15,800.00

(d) *Distribution and Repair of Books*. For ordinary recurring expenses of operation, \$500.00.

(e) *Division of Library Extension*. For ordinary recurring expenses of operation, \$10,000.00.

(f) *Kentucky State Historical Society*. For ordinary recurring expenses of operation, \$7,715.00.



## 21. DEPARTMENT OF BUSINESS REGULATION

(a) *Division of Athletic Control.* For ordinary recurring expenses of operation, \$6,500.00.

(b) *Division of Banking and Small Loans.* For ordinary recurring expenses of operation, \$45,000.00.

(c) *Division of Insurance.* For ordinary recurring expenses of operation, \$90,000.00.

(d) *Division of Securities.* For ordinary recurring expenses of operation, \$7,500.00.

## 22. DEPARTMENT OF INDUSTRIAL RELATIONS

(a) *Office of the Commissioner.* For ordinary recurring expenses of operation, \$9,000.00.

(b) *Labor and Statistics.* For ordinary recurring expenses of operation after the first Monday in January, 1940, to June 30, 1940, \$8,000.00.

(c) *Workmen's Compensation Board.* For ordinary recurring expenses of operation, \$60,000.00.

(d) *Kentucky State Employment Service.* For ordinary recurring expenses of operation, \$30,000.00.

## 23. DEPARTMENT OF MINES AND MINERALS

(a) *Division of Coal Mining.* For ordinary recurring expenses of operation, \$25,000.00.

(b) *Division of Geology.* For ordinary recurring expenses of operation, \$12,000.00.

24. APPROPRIATIONS NOT OTHERWISE  
CLASSIFIED

(a) *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of a Court Order or a written opinion from the Attorney General and approved by the Commissioner of Finance, \$10,000.00.

(b) *Bonds of Elective Officers.* For payment of premiums on bonds of State officials who are required by Statutes to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State, \$2,500.00.

(c) *Judgments.* For the payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General, \$10,000.00.

(d) *Interest on Land Grant Bonds.* For paying the interest semi-annually on A. and M. Bonds as provided by Section 4591a, Kentucky Statutes, \$9,900.00.

(e) *Frankfort Cemetery.* For the purpose of assisting in the care of graves in the Frankfort Cemetery and to be paid to persons authorized by law to receive same, \$250.00.

(f) *Statutes and Codes for Courts.* For paying for replacements and purchase of statutes and codes for the Courts as provided in Section 2432, Kentucky Statutes, \$3,000.00.

(g) *Jefferson County Fees.* For paying various officials of Jefferson County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, \$438,000.00.

(h) *Kenton County Fees.* For paying various officials of Kenton County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in form and manner prescribed by law and approved by the Commissioner of Finance, \$81,900.00.

## 25. DEPARTMENT OF HIGHWAYS

(a) *State Road Fund.* For the purpose of paying all cost of operation and maintenance of the State Highway Department and for carrying on its activities for the fiscal year beginning April 1, 1939, and ending March 31, 1940, there is hereby appropriated to the State Road Fund all the funds now realized out of the State revenues authorized now by law

or that may hereafter be authorized by law, or any additional or other revenues that may be imposed by law for the exclusive benefit of public roads and all funds realized from the Motor Vehicle Registration Tax, the Gasoline Tax, and the Tax on Other Motor Fuels, now collected by law or that may hereafter be imposed or collected by law for the benefit of said department and its activities. Such receipts and revenue shall constitute the State Road Fund.

There is hereby appropriated to the State Highway Department, all monies received and placed to the credit of the State Road Fund during the fiscal year ending March 31, 1940, not otherwise appropriated in this act, for the use and benefit of the State road system in construction, maintenance and repair of roads.

(b) *Division of Records, Equipment Maintenance and Construction.* There is hereby appropriated out of the State Highway Fund for the Fiscal year ending March 31, 1940, for ordinary recurring administrative expense of operation, \$600,000.00.

(c) *Division of Rural Highways.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1940, to be used by the Division of Rural Highways for the improvement, reconstruction, and maintenance of County roads and bridges which have not been accepted by the State Highway Commission for maintenance. Such appropriation to be expended in accordance with Chapter 5, Acts of the general Assembly, 1936, \$2,000,000.

(Of this amount, not more than 10 per cent may be used for Administrative purposes for the Rural Highway Division in the Highway Department.)

(d) *Division of Highway Patrol.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1940, for ordinary recurring expenses of operation of the Highway Patrol, as provided by law, \$300,000.00.

## 26. DEPARTMENT OF REVENUE

(a) *Administration of Gasoline Tax, Motor Vehicle Registration Tax and Tax on Other Motor Fuels.*—There is hereby appropriated out of the State Highway Road Fund to the Department of Revenue for the fiscal year ending June 30, 1940, for the ordinary recurring expense of operating, administering, and enforcing the laws pertaining to the Gasoline Tax, the laws pertaining to the Motor Vehicle Registration Tax, and the laws pertaining to Other Motor Fuels, \$130,000

## 27. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Motor Transportation.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending June 30, 1940, for the use of the Department of Business Regulation, Division of Motor Transportation, for ordinary recurring expenses of operation, \$52,000.00.

## PART III

## REVOLVING, TRUST, AND AGENCY FUNDS

There is hereby appropriated to the various professional boards, or other boards, commissions, institutions, agencies, or subdivisions of the State Government for the fiscal year ending June 30, 1940, all of the fees (which include fees from board and room, athletics, student activities) and rentals, admittances, sales, licenses collected by law, contributions, gifts, subventions and other miscellaneous receipts produced by any of the following professional boards or other boards, commissions, institutions, agencies, and subdivisions of the State Government, for the use or benefit of each of the below-named professional boards or other boards, commissions, institutions, agencies, and subdivisions of the State Government, the receipts which are received by each of the respective professional boards or other boards, commissions, institutions, agencies, or subdivisions of the State Government; which receipts are placed to the credit of the Revolving Fund (Minor

Funds) out of which shall be established a Revolving Fund Account for the use and benefit of each separate professional board or other boards, commissions, institutions, agencies and/or subdivisions of the State Government. The fund accredited to each shall not exceed at any time the amount of receipts, from a separate professional board, or other board commission, institution, agency, and/or subdivision of the State Government, credited to the Revolving Fund by each professional board, or other board, commission, institution, agency, and/or subdivision of the State Government. Withdrawal from the said Revolving Fund by each of the said professional boards, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government may be made when and if needed for ordinary recurring expenses of operation, properly approved by the Department of Finance, Division of Accounts and Control, and said requisition shall not be approved unless there is to the credit of the Revolving Fund Account of such professional board, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government, a free and unencumbered sum equal to the amount of the requisitions. The total amount any one professional board or other boards, commission, institution, agency, and/or subdivision of the State Government may requisition from the Revolving Fund Account through the Department of Finance shall not during the fiscal year ending June 30, 1940, exceed the amount placed to the credit of the Revolving Fund, out of which has been established a Revolving Fund Account, during the fiscal year July 1, 1939, to June 30, 1940, inclusive, plus any balance which said professional board, or other boards, commission, institution, agency, and/or subdivision of the State Government may have had transferred from the preceding year, on or before September 30, of the then current fiscal year, by the Department of Finance.



## DEPARTMENT OF TREASURY—

Division of Louisville Securities Office.

## DEPARTMENT OF FINANCE—

Division of Post-Audit.

Duplicating Section.

Truck Licenses—County Portion. There shall be credited to this fund for the purpose of distribution to counties such portion of truck licenses as is now provided by law as ordered by the Department of Finance distributed.

## DEPARTMENT OF REVENUE—

Operators' Licenses. There shall be credited to this fund such receipts as are specifically provided for under Section 2739M-34, Kentucky Statutes.

Back Tax Section. (Delinquent Taxes.) There shall be credited to this Revolving Fund such fees or revenues as provided for by Section 4257a-6:

## DEPARTMENT OF CONSERVATION—

Division of State Parks.

Division of Forestry (Federal).

Division of Game and Fish Commission.

Division of Publicity.

## DEPARTMENT OF HEALTH—

Department of Health—General.

Hazelwood Sanatorium.

Kentucky Crippled Children's Commission

## DEPARTMENT OF WELFARE—

Division of Hospitals and Mental Hygiene

Division of Corrections.

Division of Child Welfare.

Division of Public Assistance.

## DEPARTMENT OF EDUCATION—

Division of General Education Board.  
Jeannes Fund.  
Rosenwald Fund.  
Slater Fund.  
George-Deen Fund.  
Smith-Hughes Fund.  
Vocational Rehabilitation—Federal.  
Vocational Rehabilitation—Private.  
Kentucky State Industrial College.  
State Board of Education—Investment Fund.  
School for Deaf.  
Workshop for the Adult Blind.  
University of Kentucky.  
Eastern Kentucky State Teachers College.  
Morehead State Teachers College.  
Murray State Teachers College.  
Western Kentucky State Teachers College.

## DEPARTMENT OF LIBRARY AND ARCHIVES—

Kentucky Historical Society.  
Library Extension Division.

## DEPARTMENT OF BUSINESS REGULATIONS—

The salary of the secretary and other recurring expenses of operation for the Division of Supervision of Professional Regulation in the Department of Business Regulation shall be fixed by the Department of Finance, and shall be paid by assessments made against the funds of the agencies and boards under the Department of Business Regulation. The assessments shall be determined and fixed by the Department of Finance.

State Board of Accountancy.  
State Board of Examiners and Registration of  
Architects.  
State Board of Barber and Beautician Examiners.

State Board of Chiropractic Examiners.  
State Board of Dental Examiners.  
State Board of Embalmers.  
State Board of Pharmacy.  
State Board of Veterinary Examiners.  
State Board of Examiners of Trained Nurses.  
State Board of Bar Examiners.  
Insurance Examiners Expense.

#### PUBLIC SERVICE COMMISSION—

Out of the fees collected by the Public Service Commission as provided by Chapter 145, Regular Session of the 1934 General Assembly, a sum of \$75,000.00 for the fiscal year ending June 30, 1940, is appropriated for the payments of salaries of the Commissioners, employees, counsel for commissioners, secretary, and other ordinary recurring expenses necessary to enable the commission to perform all of the functions and duties of said Commission as provided by law.

#### KENTUCKY REAL ESTATE BOARD. DEPARTMENT OF INDUSTRIAL RELATIONS—

Division of Unemployment Compensation—Federal  
Kentucky State Employment Service.

#### JEFFERSON COUNTY MASTER COMMISSIONERS. NOT OTHERWISE CLASSIFIED—

Truck License Refunds.

The following Sections, 28, 29, 30, 31, and 32, are enacted and apply to Parts I, II, and III of the appropriations for the fiscal year ending June 30, 1939, and apply to Parts I, II, and III of the appropriations for the fiscal year ending June 30, 1940.

#### 28.

All receipts, fees, and/or revenue, regardless of whether heretofore specified in this Act, of every department, board,

commission institution agency, division, or subdivision of the State Government shall be covered into the State Treasury immediately after the close of each month through the Department of Finance and placed to the credit of the General Expenditure Fund, excepting those revenues which are specifically allocated to the State Road Fund or the Revolving Fund which shall be credited to their respective funds as provided for in this Act. The fees, receipts, and/or revenue of every officer, department, division, subdivision, commission, board, institution or agency of the State Government shall be covered into the State Treasury immediately after the close of each month and placed to the credit of the General Expenditure Fund and shall be used to defray the expenses of the State Government, and the appropriations made from the General Expenditure Fund in this Act, unless otherwise specifically appropriated to one of the professional boards, commissions, institutions, agencies, or subdivisions of the State Government for Revolving Fund purposes; such agencies shall be only those that are listed in this Act as having been approved for Revolving Fund Accounts.

29.

The appropriations herein made for the ordinary recurring expenses and extraordinary expense and capital outlay for any officer, department, board, commission, institution, and subdivision of the State Government of the Commonwealth of Kentucky shall not be available for expenditure until allotted as now provided by law, and such appropriations as are specifically made in this Act are hereby declared to be maximum and conditional appropriations except when the Governor determines an emergency exists in any department, board, commission, institution, or subdivision of the State Government requiring an additional allotment of funds to be made from the General Emergency Fund hereby placed at his disposal and made a specific appropriation to be used by him to meet existing emergencies so determined by him.

This appropriation is designated under Section 4, "EXECUTIVE DEPARTMENT", as Items (d), Part I, for the fiscal year ending June 30, 1939, and Section 4, Item (d) Part I, for the fiscal year ending June 30, 1940, of this Act.

Since the actual needs of each officer, department, board, commission, institution, or subdivision, of the State Government can only be anticipated and not finally determined by the Legislature and since the total amount of revenue accruing to the General Expenditure Fund from which these appropriations are hereby made can only be anticipated through existing law, and those that may hereafter be enacted, it is the purpose and intention of the Legislature that the State expenditures for each fiscal year covered in this Act shall not exceed the total revenues accruing to the General Expenditure Fund for the same fiscal year. To carry out this provision, the intention and purpose of the Legislature, upon the determination of the conditions set forth to wit: The needs of each officer, department, board, commission, institution, or subdivision of the State Government, and the total revenue accruing to the General Expenditure Fund the condition can not be finally determined until after adjournment of this session of the Legislature, the Governor of the Commonwealth of Kentucky is hereby authorized, empowered and directed to ascertain the needs of each officer, department, board, commission, institution, or subdivision of the State Government, and to ascertain the total revenues accruing to the General expenditure Fund of the Commonwealth, and upon the ascertainment of said facts, he, the Governor is hereby authorized, empowered, and directed by the Legislature to prevent an over-draft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing without discrimination, the appropriations herein made to any officer, department, board, commission, institution, or subdivision of the State Government; provided that the power hereby invested and granted to the Governor shall not permit any reduction of the appropriation of any officer, department, board, commis-



sion, institution or subdivision of the State Government that will actually impair the necessary governmental functions of any agency whose operation and functions are determined to be a necessary governmental function.

## 30.

To carry out the purpose of this Act for the biennium beginning July 1, 1938, and ending June 30, 1940, the State Budget Officer, with the approval of the Commissioner of Finance, is hereby empowered and granted the authority to make allotments and/or re-allotments from appropriations made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government, so as to prevent an over-draft or a deficit in any fiscal year for which appropriations are herein, made, and to prevent the maximum appropriation made to any officer, department, board, commission, institution, or subdivision of the State Government from being exceeded.

## 31.

In enacting this Budget Appropriation Law it is the deliberate intention of the General Assembly to enact each section, and each sub-section thereof, as a separate and/or specific appropriation and law, and if any section or any subsection thereof shall be held invalid, or unconstitutional, the decision of the courts shall not effect or impart any of the remaining sections, subsections, or provisions contained herein.

## 32.

All continuing appropriations in existence at the time of this Act are hereby discontinued and repealed by this Act. All laws and parts of laws in conflict with any of the provisions of the above enactments, to the extent of such conflict, are hereby repealed.

Ordered that said bill be printed and referred to the Committee on Appropriations.

Senator Dawson moved that the Chief Clerk of the Senate be directed to have one hundred and fifty additional copies of the Rules of the Senate printed.

Said motion was unanimously agreed to.

### INTRODUCTION OF BILLS

Bills of the following titles were introduced, ordered printed and referred as follows, viz.:

By Senator J. Lee Moore.

S. B. 8. An Act to repeal, amend and re-enact Sections 112-1 to 117a, inclusive, Carroll's Kentucky Statutes, 1936 Revision, said sections being Chapter 32 of the Acts of 1908, Chapter 113 of the Acts of 1928, Chapter 21 of the Acts of 1912, Chapter 23 of the Acts of 1924, and Chapter 100 of the Acts of 1892, relating to the office of Attorney General of the Commonwealth of Kentucky and his assistants, and defining the duties of said Attorney General and his assistants, providing for the salary of said Attorney General and his assistants and providing for the clerical, stenographic and other help employed in the office of the Attorney General, and providing for a limit upon the annual expenditure for such stenographic, clerical and other help so employed by the office of the Attorney General, and providing for the purchase by the Attorney General, with the approval of the Department of Finance, of such books and other office equipment and supplies as may be deemed necessary by the Attorney General for use in the office of Attorney General.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That sections 112-a to 117a inclusive, Carroll's Kentucky Statutes, 1936 revision, be and the same are hereby repealed, amended and re-enacted so that when said sections are amended and re-enacted they shall read as follows:

§ 1. That the Attorney General elected in the year 1939 and to take office on the first Monday in January, 1940, shall receive an annual salary of five thousand (\$5,000.00) dollars to be allowed and paid in the same manner as is now provided by law for the payment of other state officers.

§ 2. The Attorney General shall be the chief law officer of the Commonwealth and all its departments. The Attorney General shall appear for the Commonwealth in the trial and argument of all cases, criminal and civil, in the Kentucky Court of Appeals whenever the Commonwealth is directly or indirectly interested; he shall also appear in behalf of the Commonwealth in any Court or tribunal in or out of the State in any case or proceeding in which the Commonwealth is a party or interested except where it is made the duty of the Commonwealth's Attorney or County Attorney to represent the Commonwealth, provided, however, that the Attorney General or any of his assistants when so directed by him, may take charge of the prosecution of any case pending in any Court in the Commonwealth of Kentucky when the said Attorney General deems it necessary to do so in order to protect the interest of the Commonwealth or when he deems that public interest may be best protected thereby, and further provided that he may, when he deems it necessary, assist in any case pending in any Court which may affect, directly or indirectly, the enforcement of the laws in regard to county government. The Attorney General shall institute all actions and proceedings necessary to cause the payment of all judgments and demands of the Commonwealth payable at the State Treasury not discharged in proper time; he shall, with

the assistance of the Auditor of Public Accounts, investigate the condition of all unsatisfied claims, demands, accounts and judgments in favor of the Commonwealth and shall take all necessary steps by motion, action or otherwise to collect or cause to be collected such claims, demands, accounts, judgments and cause same to be paid into the Treasury. He shall, upon written request of any executive or ministerial officer of the Commonwealth, give such officer his written opinion touching any of the duties of such officer, and when requested by any executive or state officer, prepare such draft of all instruments of writing as may be required for public use, and perform all other duties now assigned, or which may be assigned, to him by law.

§ 3. The Attorney General shall have the power to appoint for his department the assistants and employees hereinafter enumerated who shall serve for the term for which he is elected unless sooner removed by him, and to appoint such other assistants as are now or may be hereafter provided by law. They shall perform such duties now provided by law and as may be assigned to them by the Attorney General as legal advisers for the several offices, departments and instrumentalities of the Commonwealth, or in furtherance of the discharge of his duties.

(a) The Attorney General shall appoint a first Assistant Attorney General who shall possess all of the qualifications required by law of the Attorney General and said first Assistant Attorney General shall, in case of absence or sickness, of the Attorney General perform all of the duties now or which may be imposed by law upon the Attorney General, and his salary shall be Forty-eight hundred (\$4800.00) dollars per year, payable monthly out of the State Treasury.

(b) The Attorney General shall appoint a second and third Assistant Attorney General each of whom shall be over thirty years of age and shall have been a regular practicing attorney for at least six years, and said second and third

Assistant Attorneys General shall be paid the sum of forty-two hundred (\$4200.00) dollars per year each, payable monthly out of the State Treasury.

(c) The Attorney General shall appoint a fourth, fifth and sixth Assistant Attorney General, each of whom shall be over twenty-five years of age and who shall have been regular practicing attorneys for at least four years and the said fourth, fifth and sixth Assistant Attorneys General shall each be paid a salary of thirty-six hundred (\$3600.00) dollars per year, payable monthly out of the State Treasury.

(d) The Attorney General shall further appoint two law clerks who shall be over the age of twenty-one years and each of whom shall be a regular licensed practicing attorney of the Commonwealth of Kentucky, and said law clerks shall perform such duties pertaining to the office of the Attorney General as may be assigned them by the Attorney General. The Attorney General shall fix the salary of the law clerks provided for herein and shall fix their respective salaries at a sum not to exceed two thousand dollars (\$2,000.00) per annum, payable monthly out of the State Treasury in the same manner as provided for herein for other clerical help in the office of Attorney General.

(e) The first, second, third, fourth, fifth and sixth Assistant Attorneys General and such other Assistant Attorneys General as may be appointed under the laws now in force or which may be enacted and the law clerks mentioned herein shall, before entering upon their respective duties, give a bond to the Commonwealth of Kentucky to be approved by the Attorney General, conditioned upon the faithful discharge of their respective duties, and said bond shall be filed with and kept by the Secretary of State.

(f) The Attorney General is further authorized to employ such stenographic and other clerical help for the use and benefit of his department as in his judgment may be necessary for the proper conduct of his office provided that the salaries of such stenographic and clerical help shall not exceed the



sum of fifteen thousand (\$15,000.00) dollars per annum. The Attorney General shall certify to the Auditor at the end of each month the amount due to such employees and the Auditor of Public Accounts shall draw a warrant upon the Treasurer for the amount so certified.

(g) The Attorney General and each of his assistants and the law clerks herein mentioned shall be paid their actual and necessary expenses when called away from the State Capitol on business of the Commonwealth, but before a warrant shall be issued by the Auditor of Public Accounts therefor, there shall be filed in his office an itemized statement signed by the said assistant or law clerk and approved by the Attorney General when such account is for the assistants or law clerks, and when the account is that of the Attorney General it shall be itemized showing the amount of such expenses and signed by the Attorney General.

§ 4. The Attorney General and his assistants shall attend to all litigation and business in or out of the state required of him or them under this act, or other existing laws or laws hereinafter enacted, and also any litigation or business that any state officer may have in connection with or growing out of his official duty; and no state officer, board of trustees or the head of any department or institution of the state shall have authority to employ or to be represented by other counsel or attorney-at-law, unless an emergency arises, which, in the opinion of the Attorney General, requires the employment of other counsel, in order to properly protect the interest of the Commonwealth, in which event the Attorney General shall, in writing, setting forth the reasons for such employment, request the Governor to employ such additional counsel. Before such employment, said written requests shall be filed in the office of the Secretary of State, and shall be a public record, and a copy thereof shall be retained and kept on file in the office of the Attorney General.

Before such counsel is employed, his fee and compensation shall be agreed upon and fixed by written contract by the

Governor and said counsel, subject to the approval of the Attorney General, and copies thereof shall be kept on file in the office of the Attorney General and the Secretary of State.

§ 5. The Attorney General shall keep in his office a book styled "index book or docket book" in which shall be entered the number and style of each case in which the Commonwealth is interested and the court in which it is pending, and shall also contain a brief statement of the nature of the case and the steps taken therein; said book shall be a public record.

He shall also keep on file in his office, subject to public inspection, all opinions rendered by him alphabetically arranged. He is hereby authorized to purchase such index books and file boxes as may be required by this section, and he shall file an itemized account showing the cost of same, in the office of the Auditor of Public Accounts, who shall thereupon draw his warrant upon the Treasury for the amount of said account.

§ 6. The Attorney General shall be required to keep in his office a book showing the exact amount of monies collected by him from all sources and due the state, and what disposition has been made of said monies, and he shall biennially, or before the thirty-first day of December, beginning with the thirty-first day of December, one thousand nine hundred and forty, report to the Governor a full statement of the business done in his office and monies collected by him and the disposition made of same. He is empowered to purchase, when approved by the Commissioner of Finance, such books as are necessary to carry out the provisions of this section, and is further empowered to purchase such reports and other law books as he may deem necessary for the proper conduct of his office, and to keep the library now in his office up to date, all of which is to be paid for out of the State Treasury.

§ 7. The Attorney General may prosecute an appeal without security in any case from which an appeal lies in the Court of Appeals whenever, in his judgment, the interest of the Commonwealth demands it.

§ 8. All laws in conflict herewith are hereby expressly repealed.

To Committee on Kentucky Statutes No. 1.

By Senator Barbour.

S. B. 9. An Act to amend the Constitution of the Commonwealth of Kentucky to empower the General Assembly to enact legislation compelling employers to compensate workmen and their dependents for injuries, death and occupational diseases arising out of and in the course of their employment, commonly known as a "Compulsory Workmen's Compensation Act," the method of enacting same, the time and manner of its submission to the voters.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That upon the concurrence of three-fifths of all the members elected to each House of the General Assembly of the Commonwealth of Kentucky, the yeas and nays being taken thereon and entered in full in their respective journals, the following amendment be made to the Constitution of the Commonwealth of Kentucky.

"Nothing in the Constitution of the Commonwealth of Kentucky shall be construed to prevent the General Assembly from enacting legislation to compel employers to compensate workmen and their dependents for injuries, death or occupational diseases arising out of and in the course of their employment. The General Assembly is empowered to enact such legislation, and to create the administrative facilities and procedure for the accomplishment of its purpose."

§ 2. After proper publication and submission upon the ballot in accordance with the Constitution and the pertinent Statutes enacted thereunder, this proposed Amendment shall

be submitted to the voters of Kentucky at the next general election for members of the House of Representatives.

To Committee on Compensation for Industrial Injuries.

By Senator Buckley.

S. B. 10. An Act amending and re-enacting subsection four of Section 606 of the Civil Code of Practice.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That subsection four of Section Six Hundred Six of the Civil Code of Practice be amended and re-enacted and when so amended and re-enacted to read as follows:

“4. No attorney shall testify concerning a communication made to him in his professional character, by his client, or his advice thereon, without the client's consent; nor shall a clergyman or priest testify concerning any confession made to him, in his professional character, in the course of discipline enjoined by the church to which he belongs, without the consent of the person confessing; *nor shall a physician testify concerning a communication made to him in his professional character, by his patient, or his advice thereon, without the patient's consent.*”

§ 2. This act shall take effect from and after its passage and publication as required by law.

To Committee on Courts and Legal Procedure.

By Senator Buckley.

S. B. 11. An Act requiring the operators of all vehicles to stop before passing a school bus upon a public highway

which shall be stopped for the purpose of receiving or discharging passengers, and providing penalty for violation.

Said bill is as follows, viz..

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Whenever any school bus is stopped upon a public high way for the purpose of receiving or discharging passengers, every operator of a vehicle approaching from any direction shall bring said vehicle to a complete stop and shall not start up or attempt to pass until the said school bus has finished receiving or discharging passengers; and anyone found guilty of violating the provisions of this Act shall be deemed guilty of a misdemeanor, and punished upon conviction by a fine of not more than Five Hundred (\$500.00) Dollars or imprisoned in jail for not more than six months or both so fined and imprisoned.

To Committee on Education.

By Senator Buckley.

S. B. 12. An Act relating to misrepresentations in obtaining a policy of insurance.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

No misrepresentation made in obtaining or securing a policy of insurance on the life or lives (including health and accident) of a person or persons, citizens of this Commonwealth, shall be deemed material, or render the policy void, unless the matter misrepresented shall have actually contributed to the contingency or event on which the policy is to become due and payable, and whether it so contributed in any case shall be a question for the jury.



To Committee on Insurance.

By Senator Buckley.

S. B. 13. An Act to amend Section 2176 of the Kentucky Statutes, Carroll's Edition of the year 1930, relating to the liability of innkeepers for the property of guests.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 2176 of the Kentucky Statutes, Carroll's edition of the year 1930, being Section 1 of Chapter 228, of the Acts of the General Assembly of the year 1893, be, and the same hereby is, amended and re-enacted, so that said section, as amended and re-enacted, shall read as follows:

“No innkeeper who shall keep in his inn a suitable safe or vault, in good order and fit for the safe custody of money, articles of gold or silver manufacture, precious stones, jewelry and the like, and who shall keep a copy of this law, printed by itself, in plainly legible English type, posted in the office, reading room and parlor room, of his inn, and a like copy posted on the inside of the entrance door of each of the sleeping rooms of his inn, shall be liable to any guest for the loss, by theft or otherwise, of any such property as is mentioned above, unless the guest shall have first offered to deliver such property lost by him to such innkeeper for safe custody in such safe or vault, and such innkeeper shall have refused or omitted to take it for such custody and give the guest a receipt therefor; *nor shall any innkeeper be liable to any guest for the loss of any property of whatever kind in the sum of more than two hundred dollars (\$200.00), or for any one item or article of property in the sum of more than one hundred dollars (\$100.00), unless prior to such loss the guest furnish the innkeeper with a detailed list or schedule of such property,*

*showing the value of each item thereof; but every innkeeper shall be liable for any loss of the property or baggage of his guest caused by the theft or negligence of the innkeeper or of any of his servants, anything to the contrary thereof in this act notwithstanding.’’*

To Committee on Kentucky Statutes No. 2.

S. B. 14. An Act to amend and re-enact Section 1228a of the Kentucky Statutes, relative to trespassing on or injuring premises.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That it shall be unlawful for any person, without the consent of the owner thereof, to enter any orchard, game preserve, ginseng garden, farm, or any other land, after the owner thereof has conspicuously displayed on said premises on a board not less than 12x24 inches in size, the word “Posted” and it shall be unlawful for any person to cut, tear down, turn, or otherwise injure any fence enclosing any such orchard, game preserve, ginseng garden, farm, or other land; and anyone found guilty of violating the provisions of this Act shall be deemed guilty of a misdemeanor, and punished upon conviction by a fine of not more than Five hundred dollars (\$500.00) or imprisoned in jail for not more than six months, or both so fined and imprisoned.

To Committee on Agriculture and State Fair.

By Senator Buckley.

S. B. 15. An Act authorizing Judges of Circuit Courts in Counties having a population of less than one hundred fifty thousand, and which constitute separate Judicial Dis-

tricts, to allow compensation for the defense of indigent defendants under indictment and authorizing and directing payment by the fiscal courts of counties wherein such indictment is returned.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly:*

§ 1. That in counties having a population of less than 150,000 and which constitute separate judicial districts, the judge of the circuit court, or of the criminal division thereof where a criminal division has been established, shall assign counsel, not exceeding two, to appear and defend those under indictment who are, in the opinion of the trial judge, without means and unable to employ counsel. Such counsel shall not be a partner or partners in the practice of law of the attorney having charge of the prosecution, and a partner or partners of such attorney shall not be employed by or conduct the defense of a person so prosecuted.

§ 2. Counsel so assigned in a case of felony shall be paid for their services by the county in which such indictment is returned, and shall receive therefor, in a case of murder, such compensation as the court approves, in no event to exceed the sum of \$300.00; in manslaughter cases not exceeding the sum of \$150.00; and in all other cases of felony not exceeding the sum of \$100.00. The judge of said circuit court shall certify the allowance so made to said counsel to the fiscal court of said county wherein said indictment is returned, and said fiscal court is authorized and directed to pay said amount to the counsel so appointed.

§ 3. This Act shall take effect from and after its passage and publication as required by law.

To Committee on Kentucky Statutes No. 1.

By Senator White.

S. B. 16. An Act adding to the primary system of public roads of the Commonwealth of Kentucky and making parts thereof of all duly recognized roads and highways in the Commonwealth of Kentucky.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. All roads and highways of the Commonwealth of Kentucky which heretofore have been recognized as public thoroughfares by the governing bodies of the various counties of the Commonwealth and which are now being used by the public as same are hereby established as parts of the primary system of state highways of the Commonwealth of Kentucky.

§ 2. The construction, maintenance, supervision and control of said roads shall be subject to and controlled by all the terms and conditions set out provided by the laws of the Commonwealth of Kentucky governing the construction, maintenance, supervision and control of public highways by the State Highway Commission.

§ 3. All laws or parts of laws in conflict with this act are hereby repealed to the extent of such conflict.

To Committee on Roads and Highways.

By Senator Buckley.

S. B. 17. An Act to amend Section 29 of the Constitution of the Commonwealth of Kentucky, relative to legislative authority and providing for initiative and referendum.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That upon the concurrence of three-fifths of all members elected to each House of the General Assembly of

the Commonwealth of Kentucky, the yeas and nays being taken thereon and entered in full in their respective journals, that Section 29 of the Constitution be and it is hereby amended and revised so that said Section shall read as follows:

Section 29. The legislative power shall be vested in a House of Representatives and a Senate, which, together, shall be styled the "General Assembly of the Commonwealth of Kentucky", *but the people reserve to themselves power to propose laws and amendments to the Constitution and to enact or reject the same at the polls, independent of the legislative assembly, and also reserve power at their own option to approve or reject at the polls any act of the legislative assembly. The first power reserved by the people is the initiative, and not more than 8 per cent of the legal voters shall be required to propose any measure by such petition, and every such petition shall include the full text of the measure so proposed. Initiative petitions shall be filed with the secretary of state not less than four months before the election at which they are to be voted upon. The second power is the referendum, and it may be ordered (except as to laws necessary for the immediate preservation of the public peace, health, or safety) either by the petition signed by 5 per cent of the legal voters, or by the legislative assembly, as other bills are enacted. Referendum petitions shall be filed with the secretary of state not more than 90 days after the final adjournment of the session of the legislative assembly which passed the bill on which the referendum is demanded. The veto power of the Governor shall not extend to measures referred to the people. All elections on measures referred to the people of the state shall be had at the biennial regular general elections, except when the legislative assembly shall order a special election. Any measure referred to the people shall take effect and become the law when it is approved by a majority of the votes cast thereon, and not otherwise, The style of all bills shall be: "Be it enacted by the people of the Commonwealth of Kentucky". This section shall not be construed to deprive*



*any member of the legislative assembly of the right to introduce any measure. The whole number of votes cast for Governor at the regular election last preceding the filing of any petition for the initiative or for the referendum shall be the basis on which the number of legal voters necessary to sign such petition shall be counted. Petitions and orders for the initiative and for the referendum shall be filed with the secretary of state, and in submitting the same to the people he, and all other officers, shall be guided by the general laws and the act submitting this amendment, until legislation shall be especially provided therefor.*

*Section 29-a. Initiative and Referendum on Local, Special and Municipal Laws and Parts of Laws. The referendum may be demanded by the people against one or more items, sections, or parts of any act of the legislative assembly in the same manner in which such power may be exercised against a complete act. The filing of a referendum petition against one or more items, sections, or parts of an act shall not delay the remainder of that act from becoming operative. The initiative and referendum power reserved to the people by this constitution are hereby further reserved to the legal voters of every municipality and district as to all local, special, and municipal legislation, of every character, in or for their respective municipalities and districts. The manner of exercising said powers shall be prescribed by general laws, except that cities and towns may provide for the manner of exercising the initiative and referendum powers as to their municipal legislation. Not more than 10 per cent of the legal voters may be required to order the referendum nor more than 15 per cent to propose any measure, by the initiative, in any city or town.*

*§ 2. The foregoing proposed amendment to the Constitution providing for initiative and referendum and dealing with that one subject alone, shall be submitted to the voters of this State for their ratification or rejection, at the next general election for members of the House of Representatives of this Commonwealth in accordance with the provisions of Section*

*two hundred fifty-six of the Constitution of Kentucky and at the time and in the manner provided for under said Section of the Constitution and the statutes enacted pursuant thereto to effectuate the same.*

To Committee on Constitutional Amendments.

By Senator J. Lee Moore.

S. B. 18. An Act relating to roads and highways, providing methods of paying for land to be used for rights-of-way.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That whenever it becomes necessary for the Highway Department to acquire land for rights-of-way, by condemnation or otherwise, for the building of roads and the fiscal court of the county wherein said road is to be built is unable to, or refuses to make provision for the payment of said land, said State Highway Department may pay for same out of the truck license fund due said county for the fiscal year in which said land is acquired, but said Highway Department shall not be bound for any sum greater than the truck license fund due said county.

§ 2. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

To Committee on Roads and Highways.

Resolutions of the following titles were introduced, ordered printed and referred, as follows, viz.:

By Senator Buckley.

S. Res. 8. Joint Resolution authorizing Emma J. Young to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS the Fayette County Tax Commissioner made a clerical error in transferring a \$1,400.00 valuation of a note of said Emma J. Young, writing the valuation as \$14,000.00 thereby causing the tax bill upon the said property to be made out at the sum of \$70.00 rather than the proper amount of \$7.00.

WHEREAS the said Young was absent from the State and not knowing of said error and erroneous assessment by her agent, paid the 1933 tax bill, which was paid on or before February 1, 1934, to prevent said taxes from becoming delinquent on the 28th day of February, 1934.

WHEREAS said Young has no recourse for the correction of the error by the county authorities as she paid the tax voluntarily and without protest, and the time has expired in which said error can be corrected by officials and the Commonwealth retains Sixty-three (\$63.00) Dollars not due it by said Emma J. Young.

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Emma J. Young be and she is hereby authorized and permitted to sue the Commonwealth of Kentucky in any court of Fayette County, Kentucky, for the recovery of the excess tax in the amount of \$63.00 erroneously assessed through the clerical error of the Fayette County officials. In the event of judgment for said Young, the amount of the judgment shall be paid by the Auditor of Public Accounts by warrant drawn on the State Terasurer and paid out of the general funds. Either party to said suit may appeal from any judgment as in any other civil case. The recovery herein shall be limited to and not exceed Sixty-three (\$63.00) Dollars.

To Committee on Kentucky Statutes No. 1.

By Senator Rogers.

R. Res. 9. Joint Resolution for the payment of Rose Palmer and Louis N. Palmer of Covington, Kentucky the sum of \$630.00 with interest from June 5, 1936, being the balance due them on a judgment against the Armory Commission of Kentucky for \$1,800.00 rendered in the Kenton Circuit Court on June 5, 1936.

Said resolution is as follows, viz.:

WHEREAS the General Assembly of the Commonwealth of Kentucky, at the regular session of 1924 passed what is known as the "Armory Commission Act" by the provisions of which the Armory Commission of Kentucky was created and made a body corporate, its members to consist of the Governor, who should be Chairman, the Adjutant General, and the three highest ranking officers on the active list of the Kentucky National Guard; and,

WHEREAS, said Act made it the duty of said Armory Commission to provide adequate armories, buildings, and grounds for the Kentucky National Guard for purposes of drill, instruction, and administration and for safe keeping of public property of the State and the United States issued for the use of the Kentucky National Guard; and,

WHEREAS said Armory Commission was by said Act empowered in its corporate name to sue and be sued, contract and be contracted with, and acquire by purchase or lease armories, buildings, and other grounds for the purposes above stated; and,

WHEREAS said Armory Commission by virtue of the authority vested in it under said Act did on September 15, 1926, lease in writing for a period of ten years beginning on said date and ending, unless sooner relinquished by the Commission, on September 15, 1936, from Rose Palmer and Louis



N. Palmer one combined garage, workshop and tank park at numbers 307-309 East Forty-Seventh Street in the City of Covington, Kentucky, for use by the Armory Commission as an armory, stables, and drill grounds, contracting and agreeing to pay as rental therefor the sum of One Hundred Thirty Dollars (\$130) per month payable in quarterly payments of Three Hundred Ninety Dollars (\$390) each; and,

WHEREAS said Armory Commission took immediate possession of the demised premises and occupied and used the same for the purposes for which it was rented until April 25, 1932, and paid rent thereon at the rate of \$130 per month as provided in said written lease to October 1, 1930, but neglected and refused to pay the rent or any part thereof accruing thereunder between the said date of October 1, 1930, and April 25, 1932, on which latter date the Armory Commission exercised its privilege and relinquished the leased premises; and,

WHEREAS Rose Palmer and Louis N. Palmer on June 5, 1936, in an action instituted by them in the Kenton Circuit Court against the Armory Commission for said unpaid rent were awarded judgment against said Commission therefor in the sum of Eighteen Hundred Dollars (\$1,800) with interest from the date of the judgment, on which said judgment the sum of Eleven Hundred Seventy Dollars (\$1,170) has been paid leaving an unpaid balance of Six Hundred Thirty Dollars (\$630) with interest from June 5, 1936, for the payment of which balance no provision has been made or exists, THEREFORE,

*Be it resolved by the General Assembly of the Commonwealth of Kentucky:*

That for the purpose of paying the balance due on the judgment rendered in the Kenton Circuit Court in favor of Rose Palmer and Louis N. Palmer against the Armory Commission of Kentucky for unpaid rent, there is hereby appropriated out of the general revenue of the State the sum of



Six Hundred Thirty Dollars (\$630) with interest from June 5, 1936, and the Auditor of Public Accounts is hereby authorized and directed to draw his warrant upon the Treasury for said amount, payable to Rose Palmer and Louis N. Palmer and deliver the same to them for the purpose aforesaid.

To Committee on Kentucky Statutes No. 1.

Senator Gilbert moved that the Senate do now recess to meet again at 3:30 p. m.

Said motion was agreed to.

And then the Senate recessed.

The appointed hour having arrived, the President of the Senate resumed the chair and called the Senate to order.

### REPORTS OF COMMITTEES

The Committee on Appropriations, to which same had been previously referred, reported a bill of the following title, viz.:

H. B. 1. (For title see S. J. of today, ante.)

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and ordered placed in the calendar.

### HOUSE MESSAGE

A message was received from the House of Representatives announcing that they had adopted a resolution which originated in that body, of the following title, viz.:

H. Res. 5. Concurrent Resolution of the General Assembly of the Commonwealth of Kentucky endorsing and recommending United States Senator M. M. Logan for appointment as Justice of the Supreme Court of the United States.

WHEREAS, There is a vacancy on the United States Supreme Court caused by the resignation of Mr. Justice Sutherland; and,

WHEREAS, The Honorable M. M. Logan, United States Senator from Kentucky, by reason of his high character, his fine legal attainments, his untiring energy, and his long and varied experience as a member of the bar, as Attorney General of the Commonwealth and as a Judge and Chief Justice of the Court of Appeals of Kentucky, is in every way qualified for the high office; Therefore,

*Be it Resolved, by the General Assembly of the Commonwealth of Kentucky:*

(1) That Senator Logan be, and he is hereby, cordially endorsed and recommended to the President for appointment to the vacancy, with the assurance that by the appointment he will secure the services of an able and upright judge, who "will administer justice without respect to persons, and do equal right to the poor and to the rich."

(2) That copies of this resolution be sent to Senator Alben W. Barkley with the request that he deliver a copy to the President and a copy to the Attorney General.

Senator Gilbert moved that the rules be suspended for the purpose of considering said resolution.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Gilbert moved that the Senate do now concur in and adopt said resolution as proposed and adopted by the House.

Said motion was agreed to.

Whereupon, said resolution as proposed and adopted by the House was concurred in and adopted by the Senate.

Senator Gilbert moved that the rules be suspended for the purpose of presenting a petition.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Gilbert presented a petition from the Kentucky Council of the Association of Southern Women for the Prevention of Lynching, expressing said organization as being opposed to public executions.

Ordered that said petition be referred to the Committee on Criminal Law.

Senator Gilbert moved that the Senate do now adjourn to meet again at ten o'clock, a. m., Tuesday, January 11th, 1938.

Said motion was agreed to.

And then the Senate adjourned.

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## TUESDAY, JANUARY 11, 1938

The Senate convened and was called to order by the Honorable Keen Johnson, Lieutenant Governor and President of the Senate.

The Senate was opened with prayer by the Reverend R. B. Kelly, pastor of the Church of the Nazarene.

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	J. Joseph Hettinger	Ira W. See
Aubrey Barbour	H. Watt Hillman	Paul L. Sidebottom
H. Stanley Blake	Wm. H. Jones, Jr.	John A. Sugg, Jr.
Ollie J. Bowen	Leo King	J. E. Trager
Leer Buckley	J. W. McDonald	Ervine Turner
Dr. D. H. Bush	Stanley B. Mayer	Thomas O. Turner
Waller A. Crockett	Strother Melton	E. T. Wesley
Edwin C. Dawson	E. C. Moore	Otis White
W. C. Farmer	J. Lee Moore	O. C. Whitfield
Lee Gibson	Dr. R. C. Moss	B. M. Williams
Ralph Gilbert	Ray B. Moss	J. E. Wise
John M. Hall	James C. Rogers	J. M. Wolfenbarger

Without objection a leave of absence was granted to Senator Ollie J. Bowen.

Senator Ray B. Moss moved that the rules be suspended and the privilege of the floor be extended to former Senator John L. Trumbo.

Said motion was unanimously agreed to.

The President of the Senate laid before the Senate the following communication from His Excellency, the Honorable A. B. Chandler, Governor of the Commonwealth, which was ordered read and spread upon the Journal of the Senate, viz.:

January 5, 1938.

My dear Governor Johnson:

Let me express my appreciation for the resolution adopted by the Senate, approving the renovation that has taken place in the Senate Chamber.

The members of the Assembly made available the funds which permitted this work to be done. I felt it important

that your august body have attractive and appropriate quarters for its use.

With assurance of my high esteem and with personal greetings to every member of the Senate, I am

Faithfully yours,

(Signed) ALBERT B. CHANDLER  
Governor

It should also be kept in mind that the taxpayers of Kentucky paid for these improvements.

A. B. C.

The Honorable Keen Johnson  
Lieutenant Governor of Kentucky  
Frankfort, Kentucky.

Senator Barbour presented to the Senate the following communication which was ordered read and spread upon the Journal of the Senate, viz.:

Hon. Aubrey Barbour,  
Frankfort, Kentucky.

My dear Senator:

It was with very deep emotion that I received the copy of the fine tribute to the memory of my dear husband, Dr. Ragan.

The language and sentiment are very beautiful indeed.

Please express to the President, and to the members of the Senate our sincere appreciation of their splendid and generous praise of his character. By adding to the sum of his virtues, they but exemplify their loyalty to the spirit of enduring fellowship that exists in the Senate, of which he had the honor to be a member.

Thanking you, Senator Barbour, I am

Sincerely yours,

(Signed) EFFIE M. RAGAN



Senator Dawson moved that the reading of the Journal of the proceedings of Monday, January 10th, 1938, be dispensed with and the same be approved.

Said motion was agreed to.

### INTRODUCTION OF BILLS

The following bills were introduced, ordered printed and referred as follows, viz.:

By Senator Mayer.

S. B. 19. An Act to authorize the establishment of sanitary districts in counties containing cities of the first, second and third classes and the powers of the county and state board of health with reference thereto and providing that such districts may include areas of other counties near to or adjoining such counties containing first, second and third class cities; providing for the powers of the district; creating the office of commissioner of sanitary districts and providing for his powers and duties; providing procedure and conditions under which the district and its boundaries may be established and certificate of incorporation issued, and defining certain terms used in the act.

Providing for the appointment, powers and duties of the governing body, officers and employees of such districts; providing for the plans of the improvements of the district and the supervision of the state board of health with reference thereto and the approval of the qualifications of the engineers; authorizing the entry upon lands for the purpose of making surveys and obtaining data for preliminary purposes of the district; authorizing the district to acquire and own lands and personal property and interests and used therein in this state and elsewhere including existing sanitary works; authorizing district to condemn lands and granting dominant right of

eminent domain over others authorized to condemn land for public purposes including counties, cities, school district, municipal corporations, common carriers, public utilities, subdivisions and arms of the government of the Commonwealth but not restricting to those just named; authorizing governing body of district to fix rates and rentals and to contract and make rules and regulations for the management and government of the district and providing supervision of such rules and regulations by the state board of health; restricting and prohibiting installation of other sanitary works within the district and enforcing the use of the district's works; affording injunctive relief; authorizing district to contract with individuals and others and with the governments of the United States and of other adjoining states and their political subdivisions, arms and branches; providing for financing of the organization, construction, maintenance and operation of the district and all improvements and property belonging to the district; authorizing the levy of a tax, the issuance of original bonds, refunding and deficiency bonds, the borrowing of money, collection of revenues, securities for bonds and funds borrowed; the creation of statutory mortgage liens to secure bonds and the enforcement of such liens, and the management and investment of all funds belonging to the district; authorizing counties to cooperate and assist in the organization of districts and to loan or expend funds therefor; exempting the bonds issued by the district from taxation; providing for the rights of creditors of such district and enforcement of their claims; requiring all users of the services of the district to pay therefor including municipalities, school districts and all public and private organizations and political subdivisions; providing for the extension, addition or improvement of the works of the district and the issuance of bonds therefor and providing the security for such bonds; providing penalties for interference and violation of this act and the rules and regulations promulgated thereunder, and requiring liberal construction of this act.

Said bill reads as follows, viz.:

§ 1. *Short title; definitions.*

(a) This Act may be known and cited as the ‘Sanitary District Act of Kentucky’; the bonds which are authorized to be issued hereunder may be briefly called “Sanitary District Bonds”, and shall be so engraved or printed on their face following the name of the issuing district; the districts created hereunder shall be briefly termed, “Sanitary Districts”, and the records of the districts provided for hereunder shall be termed, “Sanitary District Records”, and such title shall be printed, stamped or written thereon.

(b) Wherever the terms, “Sanitary Works”, “Improvements”, “Sanitary System” or “Sanitary Sewers” are used in this Act, they shall be taken to mean any works constructed by a sanitary district in accordance with the purposes of this Act, as set forth in Section 3 hereof.

(c) Wherever the term “Person” is used in this Act, and not otherwise specified, it shall be taken to mean, person, firm, copartnership, association or corporation other than municipal corporations or political subdivisions.

(d) Wherever the term “Public Corporation” is used in this Act, it shall be taken to mean counties, cities, school districts, water districts, drainage districts, and other governmental agencies or political subdivisions clothed with the power of levying general or special taxes or issuing bonds payable from special funds.

(e) Wherever the term “Land” or “Property” are used in this Act, they shall, unless otherwise specified, be held to mean real property.

(f) Wherever the terms, “Board of Directors”, “Directors” or “Board”, are used in this Act, said term or terms shall be held to mean the governing body of a sanitary district.

(g) Wherever the terms, “Sanitary Commissioner” or “Commissioner”, are used in this Act, they shall be held to

mean the commissioner of sanitary districts, as provided for in Section 2 of this Act.

§ 2. *Commissioner of Sanitary Districts.* The director of bureau of sanitary engineering of the State Board of Health is in addition to his other duties hereby made commissioner of sanitary districts and is hereby vested with jurisdiction, power and authority, when such conditions as set forth in this act and certified to by the County Board of Health are found to exist, to establish sanitary districts within any county or counties containing first, second or third class cities in accordance with the provisions hereinafter set forth.

§ 3. *Purposes for which districts may be established.* Such sanitary districts may be established for any of the following purposes:

- (a) To prevent and correct the pollution of streams;
- (b) To regulate the flow of streams for sanitary purposes;
- (c) To clean and improve stream channels for sanitary purposes;
- (d) To provide for the collection and disposal of sewage and other liquid wastes produced within the district; and incident to such purposes and to enable their accomplishment, to construct with all appurtenances thereto, laterals, trunk sewers, intercepting sewers, siphons, pumping stations, treatment and disposal works; to maintain, operate and repair same, and do all other things necessary for the fulfillment of the purposes of this act.

§ 4. *Petition; who may sign.* Before the commissioner of sanitary districts shall establish a sanitary district, as provided in this act, a petition, approved as to propriety and necessity by the County Board of Health of each county affected, shall be filed with the commissioner, signed by either a majority or those in possession claiming as free holders, or by the owners of more than one half of the land in acreage within the limits of the territory proposed to be organized into a sanitary district. Such a petition may be signed by

the governing body of any public corporation lying wholly or partly within the proposed district, in such manner as it may prescribe, and when so signed by such governing body such a petition on the part of said governing body shall fill all requirements of representation upon such petition of the freeholders of such public corporation, as they appear upon tax duplicates; and thereafter it shall not be necessary for individuals within said public corporation to sign such a petition. Such a petition may also be filed by any city or cities interested in some degree in the improvement, upon proper action by their governing bodies. However, property in each political subdivision wholly or partly included in the proposed district shall be represented by the signers of the petition authorized by this section to sign for them.

§ 5. *What shall be set forth in petition.* The petition shall set forth:

First: The proposed name of said district, which shall be "Sanitary District No. .... of .....County (or counties), Kentucky."

Second: The necessity for the proposed work and that it will be conducive to the public health, safety, comfort, convenience or welfare.

Third: A general description of the purpose of the contemplated improvement, and of the territory to be included in the proposed district. Said description need not be given by metes and bounds or by legal subdivision, but it shall be sufficient if a reasonably accurate description is given of the territory to be organized as a district. Said territory may include one or more political subdivisions or portions thereof, and, except as otherwise provided by this act, shall not be included wholly within the limits of a single municipality. Said territory need not be contiguous, provided it be so situated that the public health, safety, comfort, convenience and welfare will be promoted by the organization as a single district of the territory described.



Fourth: Said petition shall pray for the organization of the district.

§ 6. *Amendment and correction of errors.* No petition with the requisite number of valid signatures shall be declared null and void on account of alleged defects, but the commissioner may at any time permit the petition to be amended in form and substance to conform to the facts, by correcting any errors in the description of the territory, or in any other particular. Several similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All such petitions filed shall be considered the same as though filed with the first petition placed on file.

In determining when a majority of land owners have signed the petition, the commissioner may be governed by the names as they appear upon the tax duplicate, which for all purposes of this act, shall be prima facie evidence of such ownership.

§ 7. *Bond of petitioners.* At the time of filing the petition, or at any time subsequent thereto and prior to the time of giving of notice by the commissioners, as hereinafter provided, either bond with security approved by the commissioner shall be filed with him by the petitioners or cash or securities shall be deposited by petitioners for an amount sufficient to pay the costs in the proceedings thereafter involved, or the petitioners may request the Fiscal Court or Courts of the counties affected to appropriate funds sufficient to defray all preliminary expenses in connection with the organization of such district. The Fiscal Court or Courts of the counties affected may, in its discretion, appropriate the funds necessary for this purpose. If the commissioner of sanitary districts at any time during the proceedings shall not be satisfied that the bond, deposit or guarantee of the Fiscal Court is sufficient, or that the surety on the petitioners' bonds is safe, he may require the execution of an additional bond or the giving of additional surety, or an additional deposit or

guarantee of the Fiscal Court within a time to be fixed not less than ten days thereafter, and upon the failure of the petitioners to execute the bond or guarantee, or to give additional security or to post the additional deposit, the commissioner may refuse to proceed further and may refuse to organize the district.

§ 8. *Establishing boundaries of district.* When the petition is filed with the commissioner, he shall investigate at once the boundary of the district proposed to be organized, and may, at the cost of petitioner, make or cause to be made such surveys as are necessary to establish reasonably accurately such a boundary as will, in the judgment of the commissioner, accomplish the purpose sought by the creation of such a district, in a practicable and workable manner which will be sufficiently comprehensive to avoid confusion or interferences with any other similar district then existing or which thereafter may be created. It is not necessary that the boundaries, when establish by the commissioner, shall follow the boundaries proposed by the petitioners, but if the boundaries as established by the commissioner result in a material change from that proposed in the original petition, it shall be necessary for the petitioners to secure, in case of a larger or smaller area, additional signatures of freeholders or owners of property that will insure the approval of a majority of freeholders or owners in the area as established by the commissioner, by virtue of the change in the boundaries.

§ 9. *Notice given establishing sanitary district.* When a majority of those qualified within the boundary fixed by the commissioner are found to have petitioned for the establishment of a sanitary district and the commissioner shall have established the boundaries thereof, the commissioner shall give notice by publication of the application for the creation of such district. Such notice shall be posted in at least ten places in the area proposed to be organized into such district, or shall be published in at least two consecutive, regular edi-

tions of a newspaper of general circulation in the proposed district.

§ 10. *Hearing of objectors; procedure; jurisdiction of court.* Any owner of real property in said proposed district, who individually may not have signed the original petition as submitted for the creation of said district, and whose wishes to object to the organization and incorporation of said district shall, within thirty days after the giving of notice by the commissioner, file his or their petition in the circuit court of the county wherein the larger part of the proposed district is located, naming the commissioner defendant and setting out in the petition his objections to the organization and incorporation of such sanitary district. Process shall be served upon the commissioner and the commissioner shall answer at the time the defendant in an equity action is required to answer. Thereafter, the issues may be made up and the case may be docketed for hearing, as in an action for a declaration of rights, and an appeal may be taken and judgment shall become final as provided for in such procedure. The burden of proof shall be upon the plaintiff to show cause why such district should not be organized. If the court renders judgment against the commissioner, such judgment shall point out such changes as may be required for the establishment of such a district, which, if met by the commissioner, shall authorize the creation of this district. If such changes are not met by the commissioner, the proposed district shall not be organized unless new proceedings, as hereinbefore outlined, are instituted for the creation of the sanitary district, but such new proceedings shall not be instituted for a period of six months after the date of judgment. If the court gives judgment against the plaintiff, the commissioner shall organize the district as herein provided. If an appeal is taken as herein authorized, such appeal shall suspend the judgment until the case has been passed upon by the Court of Appeals and final judgment rendered. Either the plaintiff or the commissioner may appeal from the judgment of the circuit court to the

Court of Appeals, but the commissioner shall not be required to make any appeal bond. The pleading and practice in all suits provided for herein shall be the same as in other suits in equity.

§ 11. *Organization of district.* In the event no suit is filed against the commissioner, or in the event suit is filed and judgment is rendered in favor of the commissioner, or in the event an appeal is taken from the judgment to the Court of Appeals and final judgment is rendered in favor of the commissioner, the commissioner shall forthwith declare the district organized into a sanitary district and give it a corporate name, as provided in Section 5 of this Act, by which in all proceedings it shall thereafter be known. The commissioner shall certify his act to the county court clerk or clerks of the county or counties wherein all or any part of said district may located, who shall record such certificate as articles of incorporation; and he shall so certify to the Secretary of State, who shall record the certificate as articles of incorporation. The commissioner shall also so certify to the county judge or judges of the county or counties wherein any part of said district is located. Thereupon, the district shall be a political subdivision and shall have perpetual existence with power to sue and be sued, contract and be contracted with, incur debts, liabilities and obligations; to exercise the right of eminent domain and to assess, tax, and contract for rentals as herein provided; to issue bonds and to do and perform all acts herein expressly authorized and all acts necessary and proper for the carrying out of the purpose for which the district was created and for executing the powers with which it is invested.

§ 12. *Designation of place of business.* In such certificate of the commissioner, he shall designate the place where the office or principal place of business of the district shall be located, which shall be within the corporate limits of the district if practicable, but may be changed by the board of directors of the district from time to time, by certifying such change to the county court and the notation by such court on



its records of such location, and records of the district shall be kept at such place and shall be open to inspection as are the records of the fiscal court.

§ 13. *Appointment of board of directors; qualifications; terms of office.* Within twenty days after the commissioner certifies to the county clerk or clerks of the county or counties wherein said district is located that said district is incorporated, there shall be appointed a Board of Directors for said district consisting of three members whose duty it shall be to control and manage the affairs of said district. Said directors shall be appointed in the following manner: if the district lies wholly within a single county, the county judge of said county shall appoint all three members of the Board of Directors. If the district lies partly within two counties, the county judge of the county in which the major portion of the district lies shall appoint two members of said Board and the county judge of the other county shall appoint the third member. If the district lies within more than two counties, the county judges of all of said counties shall jointly select the three members of the Board, but each member appointed must reside in a different county. Not less than two of the members of the Board shall be freeholders, and not more than two of said members shall belong to or be affiliated with the same political party. No member of said board shall be in any way associated or connected with the ownership, operation or control of any privately owned public utility operating within the district. Said members of the first Board of Directors shall hold their offices respectively for two, three, and four years from the date of their appointment, and the length of the term of office of each member of the first Board of Directors shall be determined by lot at their first meeting. After the expiration of the respective terms of office of the first Board of Directors, each member of the Board of Directors shall be appointed for a term of four years; except that, vacancies resulting from any cause other than the expiration of a term of office shall be filled only for the unexpired term. The county



judge of the county whose member has completed his term of office or whose office has otherwise been vacated for any cause shall fill the vacated office. Provided, that when the district lies within more than three counties, vacancies shall be filled in rotation by the county judges of those counties not represented by members of the Board at the time the vacancy occurs. The members of the Board of Directors must at all times be residents within the boundaries of said district, and the office of any director who moves his residence outside said district shall automatically be vacated.

§ 14. *Order establishing district binding upon real property.* After the certificate is issued establishing the district, such district shall be deemed final and binding upon the real property within the district and shall finally and conclusively establish the regular organization of the said district against all persons except the Commonwealth of Kentucky upon suit commenced by the Attorney-General. The organization of said district shall not be directly or collaterally questioned in any suit, action or proceeding except as herein expressly authorized.

§ 15. *Bond and oath of office; Board of directors to organize.* Each director before entering upon his official duties shall take and subscribe to an oath, before an officer duly authorized to administer oaths, that he will honestly, faithfully and impartially perform the duties of this office, and that he will not be interested directly or indirectly in any contract let for the purpose of carrying out any of the provisions of this Act; and said oath shall be filed with the clerk of the said county court.

Each director shall give a good and sufficient bond to be approved by the county judge appointing him for the faithful and honest performance of his duties.

§ 16. *Organization: appointment of secretary: oaths: seal.* The board of directors shall, upon taking oath, choose one of their member as president of the board and shall select some suitable person as secretary, who may or may not be a

member of said board. Such board shall adopt a seal, and shall keep in a well bound book a record of all proceedings, minutes of all meetings, certificates, contracts, bonds given by employees and all corporate acts, which shall be open to the inspection of all owners of property in the district as well as all other interested parties or persons.

The board of directors is hereby declared to be the governing body of such sanitary district, and shall exercise all the powers and manage and control all the affairs and property of such districts; and said board shall have the right to elect a treasurer, to employ an attorney and engineer for such district as hereinafter provided, who shall hold their respective offices during the pleasure of the board, and who shall give such bond as may be required by said board. Said board may prescribe the duties and fix the compensation of all the officers and employees of said district: provided, however, that a member of said board shall in no case receive a sum to exceed \$300.00 per annum. Said board shall have full power to pass all necesasry rules and regulations and resolutions for the proper management and conduct of the business of said board and of said corporation, and for carrying into effect the other objects for which said sanitary district is formed. All such rules or regulations shall become effective only upon publication by posting in at least ten public places within the district.

§ 17. *Quorum.* A majority of the directors shall constitute a quorum, and concurrence of the majority in any matter within their duties shall be sufficient for its determination. All actions taken by the directors shall be by resolution, and in each instance the name and vote of each director shall be recorded in the minutes.

§ 18. *Duties of secretary; treasurer; bond.* The secretary shall be the custodian of the records of the districts and of its corporate seal and shall assist the board in such particulars as it may direct in the performance of its duties. It shall be the duty of the secretary to attest, under the cor-

porate seal of the district such records that may be required of him by the provisions of this Act, or by any persons ordering the same and he shall receive for such transcription, the same compensation allowed county clerks for copying records. Any portion of the record so certified and attested shall prima facie import verity. The secretary shall serve also as treasurer of the district, unless a treasurer is otherwise provided by the board. The treasurer shall give a good and sufficient bond to the board for the faithful and honest performance of his duties.

§ 19. *Duties of the district treasurer; reports; depository.* It shall be the duty of the district treasurer, who may also be the secretary, to keep an accurate account of all moneys received or disbursed by the district to make periodic accountings and report thereof as directed by the board, to make regular semi-annual accountings; to assist any auditors employed by the board to check the financial records of the district; to sign all checks or vouchers of the districts as may be authorized, which checks or vouchers will not be valid until countersigned by the president of the board; to deposit all funds received in any bank or banks as may be selected by the board; and to perform all other functions as chief financial officer of the district as may be directed by the board.

§ 20. *Employment of engineer, attorney, etc.* The engineer employed by the board, may be an individual, copartnership or corporation but before any engineer may be employed the qualifications of such engineer, or if more than one is employed, the qualifications of the chief engineer, must first be approved, in writing by the state board of health. The board of directors may also employ such other engineers, attorneys and other agents and assistants as may be needful; and may provide for their compensation, and may maintain, furnish and equip an office or offices, and purchase such office supplies, equipment, apparatus, appliances, instruments and tools as are necessary, which, with all other necessary expen-

ditures, shall be taken as a part of the cost of the improvement. The employment of the secretary, treasurer, engineer or attorney for the district shall be evidenced by agreement in writing, which shall specify the amounts to be paid for their services.

§ 21. *Annual report.* The chief engineer shall be superintendent of all the works and improvements, and shall make a full report to the board each year, or oftener if required, and it shall be his duty to make such suggestions and recommendations to the board as he may deem proper and to advise the board concerning matters pertaining to engineering, design, construction and operation of the sanitary system and district.

§ 22. *Plans for improvement.* Upon their qualifications the board shall prepare or cause to be prepared a plan for the improvements for which the district was created. Such plan shall include such maps, profiles, plans and other data and descriptions as may be necessary to set forth properly the location and character of the work with estimates of cost, and of the property benefited or taken or damaged.

In the preparation of the plan, the board may recognize the necessity of future extensions and enlargements which may result from enlargements of the area of the district, in order that the district improvements may be designed to meet properly such increased demands.

§ 23. *Former surveys may be taken over.* In case the board of directors finds that any former survey made by any other district or in any other manner is useful for the purposes of the district, the board of directors may take over the data secured for such survey, or such other proceedings as may be useful to it, and may pay therefor an amount equal to the value of such data to said districts, which shall not exceed the cost of obtaining such information independently.

§ 24. *Submission of plans to state board of health for approval.* Upon the completion of such plan the board shall



submit it to the state board of health for approval. If the state board of health should refer back said plan for amendment, the board shall prepare and submit to the state board of health an amended plan. If the state board of health should reject such plan, the said board shall proceed as in the first instance under Section 22, above, to prepare another plan. If the state board of health should approve said plan, a copy of the action of said state board of health shall be filed with the secretary of the board of directors and by him incorporated into the records of the district.

§ 25. *Completion of official plan and acceptance thereof.* Upon the approval of the official plan by the state board of health the board of directors shall pass a resolution accepting the official plan as final and fixing all financing, taxes, and rentals as authorized by this act necessary for the construction, maintenance, and operation required to place such plan in effect. After final resolutions are passed fixing such rates and rentals, no alterations of the plan shall be made except as provided herein and as approved by the state board of health.

§ 26. *Approval of plans for sewage improvements.* After the establishment of the district and the organization of the board of directors, no public or private corporation, or person, or firm shall install within such districts laterals, trunk lines, interceptors for the collection or discharge of sewage or other liquid waste, treatment or disposal works, until the plans therefore have been submitted to and received approval of the board of directors of the district and of the state board of health. Any such installation contrary to the provisions of this section shall constitute a nuisance and shall be abated by injunction upon proper application by any one aggrieved, including the district, the commissioner, the state board of health, or the county health officer or department.

§ 27. *Power to execute, maintain and operate improvements.* The board of directors shall have full power and authority to devise prepare for, execute, maintain and operate



any or all works or improvements necessary or desirable to complete, maintain, operate and protect the works provided for by the official plan. They may secure and use men and equipment under the supervision of the chief engineer or other agents, or they may in their discretion let contracts for such works, either as a whole or in part.

§ 28. *Right to enter upon lands.* The board of directors of any district organized under this Act, or their employees or agents, including contractors and their employees may enter upon lands within or without the district in order to make surveys and examinations to accomplish the necessary purposes of the district. They may also enter to have access to the work, being liable, however, for actual damage done, but no unnecessary damage shall be done. It shall be unlawful for any person to prevent, obstruct, or interfere with such entrance and upon conviction, he shall be guilty of a misdemeanor, punishable by a fine not exceeding fifty dollars.

§ 29. *General powers of the board.* The powers of the board shall be limited to the construction, maintenance and operation of such works as are necessary to carry out the purposes of the district in improvement of sanitation, as set forth in Section 3 of this Act, but shall not permit house and users' connections at the cost of the district; provided that the district may, upon payment in advance of the cost, install house and users' connections; and provided further that every connection shall be made under the supervision of the district. No house or users' connection shall be made unless and until such house or user is provided with an adequate water supply.

In order to effect the proper collection and disposal of sewage and other liquid wastes produced within the district, to promote the public health, comfort, convenience and welfare, and to accomplish all other purposes of the district, the board of directors is authorized to clean out, straighten, alter, deepen, or otherwise improve any stream, watercourse, or body of water receiving sewage or other liquid wastes and

located in or out of said district; to fill up any abandoned or altered stream, water-course, or body of water located in or out of said district; to construct and maintain laterals, trunk sewers, intercepting sewers, siphons, pumping stations, treatment and disposal works and improvements deemed necessary to accomplish the purposes of the district and to construct, preserve, operate or maintain such works in or out of said district; to construct connections to the works of the district for the delivery thereto of sewage and other liquid wastes; to incorporate with the works of the district or otherwise utilize any public sewers, drains or other sewerage improvements either without modifications or with such repairs, modifications or changes as are deemed necessary; to construct any and all of said works and improvements across or through any public or private property in or out of said district; and to hold, encumber, control, acquire by donation, purchase or condemnation, and to construct, own, lease, use, use and sell any real or personal property, or any easement necessary for rights-of-way or location for the works and improvements of the district, or for any necessary purpose, or for obtaining or storing material to be used in constructing and maintaining said works and improvements.

This act shall not limit or interfere with the right of public corporations to install, maintain and operate sewerage systems as otherwise permitted by law. However, this Act shall give to the board of directors full power and authority in the construction and maintenance of improvements for the purposes of the district to serve the area included within the district, and the board shall have power to require the use of the improvements of the district by public corporations and persons included within the district and for which the improvements were installed.

§ 30. *Rates, resolution; charges for services.* The board shall, by resolution, determine the rates and compensation or rentals to be charged for the use of such sani-

tary works, which rates shall at all times be reasonable, taking into account the cost of the sanitary works the cost of operation and maintenance thereof, and the amounts necessary for the amortization of the bonds issued to finance said works. The same schedule of rates and charges shall apply to all users of the same class. Such rates shall be binding upon all users of the sanitary system. The board shall, however, have the authority to alter and revise such rates in its discretion.

In case of failure of any user to pay for services rendered, the board may compel payment and may enjoin further use until such payment is made. The board shall also have the authority to enter into contracts with public corporations or other large users of sewer services, such contracts to contain provisions mutually agreeable to both parties. All money received as compensation under the provisions of this paragraph shall be deposited in the bond and interest payment fund, in a depreciation fund and in a maintenance fund of the district for the maintenance and operation of such sanitary works, as hereinafter provided.

§ 31. *Advertising and letting contracts.* All contracts which may exceed five hundred dollars for work, material or supplies shall be advertised for bids not less than seven days before bids are to be received for such work, material or supplies by notice published once a week for two consecutive weeks (publication being complete on date of last publication), in at least one newspaper of general circulation within the district where the work is to be done or the materials or supplies used and the contract shall only be let to the lowest and best bidder who shall give bond with approval and ample surety for the faithful performance of the contract. The notice shall specify the general nature of the bid sought, give the time and date bids are to be received, and state where and how more specific information can be obtained. Such contract shall be in writing, and shall be accompanied by or shall refer to plans and specifications for the work to be done, pre-

pared by the chief engineer. The plans and specifications shall at all times be made and considered a part of the contract. Said contract shall be adopted by the board of directors and signed by the president of the board and by the contractor, and shall be executed in duplicate and shall become a part of the records of the district.

§ 32. *Dominant right of eminent domain.* The district where necessary for the purposes of this Act, shall have a right of eminent domain which shall be superior to the right of eminent domain of railroad, telegraph, telephone, gas, water, electric, bridge and other companies and corporations authorized to condemn land or rights of way over counties and cities and towns, and the boards and departments thereof and of the Commonwealth.

In the exercise of this right due care shall be taken to do no unnecessary damage to other public utilities, roads, or works, and, in case of failure to agree upon the mode and terms of interference, not to interfere with their operation or usefulness of such other works beyond the actual necessities of the case, due regard being paid to the other public interests involved.

§ 33. *Board authorized to acquire necessary land.* The district is hereby authorized to acquire by gift, devise, bequest, grant or purchase solely from the funds provided under the authority of the Act, such lands, structures, rights-of-way, franchises, easements or other interests in land necessary to accomplish its purpose, as provided in this Act, upon such terms, privies or considerations as may be deemed by the board of directors to be reasonable and can be agreed upon between said board and the owner or owners thereof. Title to all property acquired by the board shall be taken in the corporate name of the sanitary district.

§ 34. *Condemnation authorized; proceedings.* The board of directors may, by resolution reciting such need, order the condemnation for the district of any interests, franchises, easements, rights or privileges, land or improvements which



may, in the opinion of the board, be necessary for the proposed construction of any structure authorized in this act, and proceedings for such condemnation shall be conducted in the manner prescribed by law for the condemnation of lands for railroad and turnpike road purposes. No payment or award in any condemnation proceedings or for the cost of such proceedings, or the expense thereof, shall be made except from the funds provided under the authority of this Act.

§ 35. *Board must restore public works damaged.* Any public ways or public works damaged by reason of the building of any structures authorized by this Act shall be restored or repaired by such district and shall be placed, as nearly as practicable, in their original condition.

§ 36. *Regulations for protection of improvement.* Where necessary, in order to secure the best results from the construction, operation and maintenance of the works and improvements of the district and to prevent damage to the same from misuse, the board of directors may make and enforce regulations pertaining to the use of municipalities, public corporations and persons of the works and improvements of the district, and by such regulations may prescribe the design, construction and use of sewers within the district, the manner in which connections to laterals, trunk sewers, intercepting sewers, and to other works of the district shall be made, and may prevent the unnecessary pollution of any water course or supply within the district and may prohibit discharge into such sewers of any liquid or solid wastes deemed detrimental to the works and improvements of the district. Provided, however, that such regulations shall have no effect until they have been approved by the state board of health. The district board of directors may recover by civil action from any person, municipality, or public corporation violating such regulations, for each offense, in a sum not less than one hundred dollars nor more than one thousand dollars, together with costs. The directors shall have authority to enforce by mandamus or otherwise all necessary regulations made by them



and authorized by this Act and may remove any improper construction or may close any connection made improperly or in violation of said regulations. Any public corporation, municipality, or person wilfully failing to comply with such regulations shall be liable for damages caused by such failures and for the cost of renewing any construction damaged or destroyed.

§ 37. *Removal of obstructions; procedure.* All public corporations or persons having buildings, structures, works, conduits, mains, pipes, tracks or other physical obstructions in, over or upon the public streets, lanes, alleys or highways, which shall interfere with or impede the progress of construction, maintenance or repair of the works of the district shall upon reasonable notice from the board, promptly so shift, adjust, accommodate, or remove the same, as fully to meet the exigencies occasioning such action. Upon failure of any public corporation or person to make such changes the board may do so. Unless otherwise mutually agreed to, the cost and expense of such changes shall be met by the district.

§ 38. *Surveys and investigations.* The board of directors shall also have the right to establish and maintain stream gages and rain gages and may make such surveys and examinations of rainfall, stream flow, and other scientific and engineering subjects as are necessary and proper for the purpose of the district, and they may issue reports of their findings.

§ 39. *Board may co-operate with U. S. government and other agencies.* The board of directors shall also have the right and authority to enter into contracts or other arrangements with the United States government or any department thereof, with persons, railroads or other corporations, with public corporations, and the state government of this or other states, with sewerage, drainage, conservation, conservancy, or other improvement districts, in this or other states, for co-operation or assistance in constructing maintaining, using and operating the works of the district or the waters thereof,

not in violation of the State Constitution; or for making surveys and investigations or reports thereon; and may purchase, lease or acquire land or other property in adjoining states in order to secure outlets or for other purposes of this Act, and may let contracts or spend money for securing such outlets or other works in adjoining states.

§ 40. *Payment of preliminary expenses.* After the filing of a petition under this Act and before the district shall be organized, the cost of publication and other official cost of the proceedings, before the commissioner of sanitary districts may be paid out of the general funds of the county or counties in which the petition is pending. Such payments shall be made on the warrant of the auditor by the order of the fiscal court. In case the district is organized, such cost shall be repaid to the county out of the first funds received by the district through levying of taxes or selling of bonds, or the borrowing of money. If the district is not organized, then the cost shall be collected from the sources provided therefor in Section 7 hereof.

Upon the organization of the district, the commissioner shall make a report to the respective fiscal courts indicating a preliminary division of the preliminary expenses between the counties in which the district is included in approximately the proportion of interest of the various counties, as may be estimated by said commissioner. The fiscal court of each county affected shall issue an order in accordance with the commissioner's verified report to the auditor of each county to issue his warrant upon the treasury of his county to reimburse the county having paid the total cost, out of the funds provided by the tax or loans herein authorized in Sections 41, 42 or 43 for such preliminary expenses.

§ 41. *Payment of expenses.* After the district is organized, expenses incurred prior to the receipt of money by the district from taxes or bond sales or otherwise, shall be paid from the general funds of the counties in which the district is included upon the order of the fiscal court and upon certi-

fication of the clerk of the court of each county, who thereupon at once issue his warrants to treasurer of his county, and proportionate payments are to be made in accordance with the order of the court as aforesaid. Upon receipts of funds by the district from the sale of bonds or by taxation, the funds so advanced by the county shall be repaid.

§ 42. *Tax levy.* As an alternative method to the sale of bonds for the purpose of securing funds for the payment of preliminary expenses before the district is organized (provided same is subsequently organized), and the payment of expenses after organization as is necessary therefore, as outlined in Section 41, the board of directors, as soon as duly appointed and qualified, shall have the power and authority to levy upon the property of the district, one and only one levy of not to exceed five cents on each one hundred dollars of assessed valuation at the last preceding assessment to be used for the purpose of paying the expenses of organization, for surveys and plans, and for the other incidental expenses which may be necessary up to the time money is received from the sale of bonds as hereinafter provided. This tax shall be certified to the auditors of the various counties and by them to the respective treasurers of their counties. The collection of such tax levy shall conform to the collection of taxes for counties of the Commonwealth of Kentucky, as provided by law, and the same provisions concerning the non-payment of taxes shall apply. The tax herein authorized to be levied shall be added by the county clerk to the next state and county tax bill following the levy of such tax by the Board of Directors and shall be collected concurrently with such state and county taxes; provided, however, that neither the county tax commissioner nor the county clerk shall be entitled to any additional compensation for services rendered in connection with the listing of the property for taxation nor shall the sheriff receive any additional compensation for the collection of said taxes.

§ 43. *Authority to borrow money.* In order to facili-

tate the preliminary work and payment therefor, the district through it's board of directors may borrow money at a rate of interest not exceeding six per centum (6%) per annum, may issue and sell, or pay directly to it's creditors negotiable evidence of indebtedness (herein called warrants) signed by the district by the members of the board, and may pledge the preliminary tax of not exceeding five cents per one hundred dollars of assessed valuation at the last preceding assessment, less a reasonable allowance for interest, as hereinabove provided, after the same has been levied, for the repayment thereof. If any warrant issued by the board of directors is presented for payment and is not paid for want of funds in the treasury, that fact, with the date of refusal to pay, shall be endorsed on the back of such warrant, and the warrant shall thereafter draw interest at the rate of six per centum (6%) per annum until such time as there is money on hand, derived from the tax levy, sufficient to pay the amount of said warrant, with interest.

§ 44. *Bond issue; resolution to be adopted.* For the purpose of defraying the cost of organizing the district, preliminary expenses after organization, acquiring any sanitary works authorized by this Act, and any appurtenances or extensions thereto, either by purchases or construction the district through its board of directors may borrow money and issue negotiable bonds, provided that no such bonds shall be issued unless and until authorized by resolution specifying the purpose for which the funds are to be used and the proposed undertaking, the amount of the bonds to be issued and the maximum rate of interest such bonds are to bear, which shall not exceed six per centum (6%) per annum. Such resolution shall further provide that such sanitary works and appurtenances which are to be acquired or the proposed extensions thereto, are to be acquired pursuant to the provisions of this Act.

§ 45. *Bond interest rate; maturities; terms.* All bonds authorized under the provisions of this Act may be issued



bearing interest at a rate not exceeding six per centum (6%) per annum, payable semi-annually, and shall be executed in such manner and be payable at such times, not exceeding forty (40) years from the date thereof, and at such place or places as such board of directors shall determine.

§ 46. *Negotiable instruments; tax free; sale of bonds; net yield; payable only from revenues.* Any and all such bonds shall have and are hereby declared to have in the hands of bona fide holders all of the qualities of negotiable instruments under the law merchant, and shall not be subject to taxation. In case any officers whose signatures or countersignatures appearing on the bonds or coupons shall cease to be such officers before delivery of such bonds, such signatures or countersignatures shall, nevertheless, be valid and sufficient for all purposes the same as if they had remained in office until such delivery. Such bonds shall be sold in such manner and upon such terms as the board of directors shall deem for the best interest of such sanitary district. In no event shall any bonds be negotiated on a basis to yield more than six per centum (6%) per annum. Such bonds, when issued, shall be payable solely from the revenue funds derived from the rentals from services rendered by the district to the inhabitants thereof, as provided in Section 29, hereof, and shall not constitute an indebtedness of the sanitary district within the meaning of any constitutional provisions or limitations. It shall be plainly stated on the face of each bond that same has been issued under the provisions of this Act, and that it does not constitute an indebtedness of such sanitary district within the meaning of any constitutional provisions or limitations.

§ 47. *Application of proceeds; lien to secure bonds.* All money received from any bonds issued pursuant hereto shall be applied solely for the purposes set forth in Sections 3 and 44 of this Act, provided that such money may be used also to advance the payment of interest on bonds during the first three years following the date of such bonds. And there shall



be and there is hereby created a statutory mortgage lien upon all properties of the sanitary district to and in favor of the holder or holders of any coupons attached to said bonds, to secure the payment of such bonds and coupons.

§ 48. *Enforcement of lien.* The sanitary works constructed or acquired by the board of directors, together with any extensions and appurtenances thereto, shall remain subject to the statutory mortgage lien, herein provided, until the payment in full of the principal of and interest on the bonds. Any holder of such bonds, or of any of the coupons may, by proper proceedings, protect and enforce the statutory mortgage lien herein provided, and may enforce and compel by proper procedure including mandamus the performance of all duties required by this Act, including the making and collection of sufficient rates, the segregation of the income and revenue and the application thereof. The venue of such action shall be the county wherein said district or the largest boundary thereof lies.

§ 49. *Receiver in case of default.* If there be any default in the payment of the principal of or the interest on any of said bonds, any court having general equity jurisdiction may appoint a receiver to administer the properties of the sanitary district on behalf of said district, with power to charge and collect rates sufficient to provide for the payment of any bonds or obligations outstanding against said properties, and for the payment of the operating expenses, and to apply the income and revenue in conformity with this Act and the resolution referred to in Section 44 hereof.

§ 50. *Creation of construction, maintenance, operation, depreciation and bond payment funds; rates to be so fixed to yield such amounts.* At or before the issuance of such bonds, the board of directors of the sanitary districts shall, by resolution set aside and pledge the income and revenue derived from services rendered by its sanitary works into a separate and special fund to be used and applied in the payment of the cost thereof, and in the maintenance, operation and deprecia-

tion thereof. Such resolution shall definitely fix and determine the amount of revenue which shall be necessary and which shall be set apart and applied to the payment of the principal of and interest on the bonds, and the proportion of the balance of such income which is to be set aside as a proper and adequate depreciation fund, and the remaining portion of such balance shall be set aside for reasonable and proper operation and maintenance thereof, except as herein provided.

The rates to be charged for the service from such works shall be sufficient at all times to provide for the payment of interest upon all bonds and to create a sinking fund to pay the principal thereof, as and when the same becomes due and payable, and to provide for the operation and maintenance thereof, and to provide an adequate depreciation account; such rates shall be fixed and revised from time to time so as to produce these amounts, in accordance with the provisions of Section 30 thereof.

§ 51. *Transfer of balances to other accounts.* If any surplus shall be accumulated in the operation and maintenance fund, which shall be equal to the cost of maintaining and operating the works of the district during the remainder of the calendar, operating or fiscal year, as may be provided by the resolution hereinabove required, and the cost of maintaining and operating such works during the succeeding like calendar year, operating or fiscal year, and excess over such amount may be transferred at any time by the board of directors to the depreciation account to be used for any improvements, extensions or additions to such works, as hereinafter provided.

§ 52. *Expenditure of depreciation fund; investments.* The funds accumulated in the depreciation account shall be expended in balancing the depreciation in the works of the district or in making new construction, extensions or additions thereto. Any such accumulations may be invested by the board of directors as trust funds under the provisions of

Chapter 128 of the Kentucky Statutes, and if invested, the income from such investments shall be carried in the depreciation account.

§ 53. *Municipalities to pay for service.* The reasonable cost and value of any service rendered to a city, county, school district or other municipal corporation within the sanitary district and receiving services therefrom may be charged against such municipal corporation, school district, city or county and shall be paid for monthly, as the service accrues, from current funds or the proceeds of taxes of such municipal corporation, school district, city or county. Such funds so paid shall be accounted for in the same manner as other revenues of the sanitary district.

§ 54. *Issue of refunding bonds.* Such sanitary district may issue new bonds for the purpose of providing funds for the payment of any outstanding bonds, in accordance with the procedure prescribed by this Act. Such new bonds shall be secured to the same extent and shall have the same source of payment as the bonds which shall have been thereby refunded.

§ 55. *Issue of deficiency bonds.* Should the board of directors find, prior to completion of the sanitary works already begun, that the bonds originally authorized will be insufficient to accomplish the purpose desired, additional bonds of like standing with the original issue may be authorized and issued subject to the procedure herein required.

§ 56. *Bonds for improvements and betterments.* Any sanitary district acquiring any works pursuant to the provisions of this Act may, at the time of issuing the bonds for such acquisition authorize the issuance of additional bonds for extensions and permanent improvements to be placed in escrow and to be negotiated from time to time, as such proceeds for that purpose may be necessary. Such bonds, when so negotiated, shall have equal standing with the bonds of the same issue.

§ 57. *Additional bonds for improvements and betterments.* In like manner, such sanitary district acquiring any

sanitary works under the provisions hereof may provide for the extension or improvement of such sanitary works by an additional issue or issues of bonds, in the manner herein provided. Such bonds shall be junior in standing to the bonds of the issue authorized to finance the original construction and shall constitute a second lien upon the revenues of the district, secured by a second statutory mortgage lien upon the properties thereof, and an additional bond and interest payment fund shall be established by resolution at the time of the issuance of such second lien bonds. Any surplus of funds which would otherwise be placed in the depreciation account shall be placed in such bond and interest payment fund for the payment of the principal of and interest on such second lien bonds. The rates for service charged to the users of the works of the district may be increased to provide the additional revenue necessary to amortize such lien bonds.

§ 58. *Administrative provisions.* Such sanitary district in acquiring any works under the provision of this Act, may provide by resolution any such provisions and stipulations for the administration of the income and revenue, and for the security of the bond holders as the board of directors of such district may deem necessary.

§ 59. *Act created alternate method for acquisition of sanitary work.* The Act shall be deemed to create an additional and alternate method for the acquisition of sanitary works in counties containing cities of the first, second and third classes, and shall not be deemed to include, alter, amend, or repeal any other statutes. No proceedings shall be required for the acquisition of any sanitary works hereunder, or the issuance of bonds hereunder except such as are prescribed by this Act; no provision in the general laws of the Commonwealth or the charter of any city, which may be included within a sanitary district to the contrary notwithstanding.

§ 60. *Liberal construction.* This Act, being necessary for and to secure the public health, safety, convenience and



welfare of cities and counties in the Commonwealth of Kentucky, shall be liberally construed to effectuate the purposes hereof, and if any provision of this Act is held to be unconstitutional, it shall not affect the validity of any other provision hereof.

To Committee on Municipalities.

By Senator Wm. H. Jones, Jr.:

S. B. 20. An Act establishing as part of the primary system of State Highways a road known as the Saben's Mill Road in Barren County.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as part of the Primary System of State Highways of the Commonwealth of Kentucky a road in Barren County known as the Saben's Mill Road, said road following the present route from Marr's Shop on the Glasgow-Tompkinsville road, the Saben's Mill bridge, thence in a southerly direction along present county road, known as the Wilkinson's Mill Road, to the Glasgow Flippin road near the Phil Owens' place.

§ 2. That the construction, maintenance, supervision and control of said road shall be subject to and controlled by the provisions of Chapter 17 of the Acts of the General Assembly of 1920, and all other laws pertaining thereto establishing, creating and governing the Primary System of State Highways, to the same effect as if said road had been named in the Original Act as one of the projects of the Primary System of State Highways as provided therein.

To Committee on Roads and Highways.



By Senator Jones:

S. B. 21. An Act establishing as part of the Primary System of State Highways certain roads near the City of Glasgow in Barren County.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as part of the Primary System of State Highways of the Commonwealth of Kentucky certain roads in Barren County near the City of Glasgow, as recorded on Page 98 and 99 of Plat Book 1 in the office of the County Court Clerk of Barren County per acknowledgment of August 19, 1937; namely, Norris Avenue from its intersection with U. S. 31-E to its junction with Leach Avenue; Leach Avenue from its junction with Norris Avenue to its end; Windsor Avenue from Norris Avenue to its end; Ridgecrest Avenue from Norris Avenue to Leach Avenue.

§ 2. That the construction, maintenance, supervision and control of said road shall be subject to and controlled by the provisions of Chapter 17 of the Acts of the General Assembly of 1920, and all other laws pertaining thereto establishing, creating and governing the Primary System of State Highways, to the same effect as if said road had been named in the Original Act as one of the projects of the Primary System of State Highways as provided therein.

To Committee on Roads and Highways.

By Senator Jones:

S. B. 22. An Act establishing as part of the Primary System of State Highways certain roads near the City of Glasgow in Barren County.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as part of the Primary System of State Highways of the Commonwealth of Kentucky certain roads in Barren County near the City of Glasgow, as recorded on Page 78 and 79 of Plat Book 1 in the office of the County Court Clerk of Barren County per acknowledgment of July 20, 1931; namely, Hutcherson Drive from its intersection with U. S. 31-E to its end; Morningside Drive from its junction with U. S. 31-E to its end; Community Drive from its junction with U. S. 31-E around the grounds of the Samson Community Hospital to junction with U. S. 31-E north of said Hospital; Elizabeth Street from Hutcherson to Community Drive.

§ 2. That the construction, maintenance, supervision and control of said roads shall be subject to and controlled by the provisions of Chapter 17 of the Acts of the General Assembly of 1920, and all other laws pertaining thereto establishing, creating and governing the Primary System of State Highways, to the same effect as if said roads had been named in the Original Act as one of the projects of the Primary System of State Highways as provided therein.

To Committee on Roads and Highways.

By Senator Jones:

S. B. 23. An Act establishing as part of the Primary System of State Highways a road known as the Marcum's Mill Road in Metcalfe County.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as part of the Pri

mary System of State Highways of the Commonwealth of Kentucky a road in Metcalfe County known as the Marcums Mill Road, said road following the present route from Marcum's Mill to the Glasgow-Greensburg road, at Pink Ridge, a distance of approximately 2 miles.

§ 2. That the construction, maintenance, supervision and control of said road shall be subject to and controlled by the provisions of Chapter 17 of the Acts of the General Assembly of 1920, and all other laws pertaining thereto establishing, creating and governing the Primary System of State Highways, to the same effect as if said road had been named in the Original Act as one of the projects of the Primary System of State Highways as provided therein.

To Committee on Roads and Highways.

By Senator Waller A. Crockett:

S. B. 24. An Act providing for the legalizing and licensing and regulation of establishments wherein bets or wagers may be made or placed on horse races run at recognized and legal race courses; providing for annual license taxes on such establishments and providing penalties for violation of any of the provisions of this act and repealing all other laws or parts of laws in conflict herewith.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That any person, firm or corporation shall have the power and right, subject to the provisions of this act, to set up, maintain and operate an establishment for the purpose of taking or placing wagers or bets on horse races to be run at any or all legalized race courses; said establishments or places where bets or wagers are placed on horse races shall be known as hand books, within the provisions of this act.

Article 2. Every person, firm or corporation proposing to engage in the business of operating hand books, within the provisions of this act shall obtain from the State Tax Commission a license to engage in the business of operating a hand book. For the privilege of setting up, maintaining or operating a hand book within this state such operator or operators shall first be required before such time as any bets or wagers on any horse races are taken, received or placed by such hand book to purchase and procure the license hereinbefore set out and to pay therefor the sum of \$500.00.

Article 3. All licenses issued by the said State Tax Commission shall extend for the period of one year and at the expiration shall be renewed upon the same terms and conditions under which the original license was issued.

Article 4. All payments made for licenses hereunder shall be made to the State Tax Commission, payable to the State Treasurer and all monies derived from the provisions of this act shall go and be credited to the General Expenditure Fund.

Article 5. Any person, firm or corporation may apply to the State Tax Commission for a license to set up, maintain or operate a hand book under the provisions of this act. Such application shall be in writing and verified and shall set forth in detail such information concerning the applicant for said license and the premises to be used therefor as the State Tax Commission shall require. The State Tax Commission is hereby vested with the power to determine whether or not the person, firm or corporation so applying for said license is a suitable person to operate a hand book and of good moral character. In the event that said State Tax Commission shall refuse to issue said license they shall at once return to the applicant any sum paid for said license and return his application.

Article 6. The State Tax Commission is hereby authorized to make all necessary rules and regulations for the con-

duct and operation of hand books as herein set out and may revoke or refuse licenses for the violation of any of the provisions of this act or for other reasons which they deem sufficient.

Article 7. Any person, firm or corporation who shall engage in the business of setting up, maintaining or operating a hand book within the meaning of this statute without having first procured said license shall be deemed guilty of a misdemeanor and upon conviction punished by a fine of not less than \$1000.00 or imprisonment in the county jail for a period of not less than ninety days, or both so fined and imprisoned.

Article 8. It shall not be incumbent upon the Commonwealth to prove that the horse race upon which the bet or wager is made was actually run or that an establishment had been set up for the purpose of receiving, taking or placing bets or wagers. Proof that the bet or wager was made upon what was purported to be a horse race shall be deemed sufficient to establish a prima facie case for the Commonwealth.

Article 9. All laws or parts of laws are hereby repealed to the extent of such conflict.

Article 10. Whereas, the present state revenue does not meet the needs for maintenance and development of the state government, and its agencies and the state's credits is threatened with impairment, an emergency is declared to exist and this Act shall become a law and be effective on its passage and approval or non action by the government, as provided by the constitution of Kentucky.

To Committee on Revenue and Taxation.

### CALENDAR

The Senate took up for consideration from the Calendar a bill of the following title, viz.:

H. B. 1. An Act appropriating money for the operation, maintenance, support, and functionings of the



various officers, departments, boards, commissions, institutions, and subdivisions of the State Government of the Commonwealth of Kentucky, and the purchase of record books, as provided by Section 388 Kentucky Statutes, 1936 Edition, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees and defraying the expenses of any and all other State obligations for the fiscal years ending June 30, 1939, and June 30, 1940, designating the sources and funds from which said appropriations are to be made, describing the manner in which the same are to be paid, providing for the payment into the State Treasury of all fees and other miscellaneous receipts collected by all the different officers, departments, boards, commissions, institutions, and subdivisions of the State Government, which include all the different agencies of the State, providing for the establishment of certain revolving funds specifically mentioned, providing for money refund, authorizing and empowering the Governor of the Commonwealth to equitably reduce, or adjust the appropriations made to officers, departments, boards, commissions, institutions and subdivisions of the State and all other agencies specifically mentioned therein and authorizing the State Budget Officer with the approval of the Commissioner of Finance to make allotments and/or re-allotment from appropriations made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government and other agencies, and authorizing transfers from allowances for one budget class to allowances in another budget class within the same budget unit, when approved by the Commissioner of Finance providing that certain appropriations shall be limited to specific purposes, barring the use of appropriations for certain purposes, and repealing all blanket and continuing appropriations not provided for in this Act, and all appropriations made by any previous act, or acts of the General Assembly of the Commonwealth of Kentucky and repealing all laws or parts of laws in conflict with any of the pro-

visions therein and enacting each section and each subsection as a separate or specific appropriation.

Senator Dawson moved that the second reading at length of said bill be dispensed with, and that same be read the second time by its title only.

Said motion was agreed to by a majority of members elected.

Whereupon, the Constitutional provision as to the second reading at length of said bill being dispensed with, said bill was read the second time by its title only and ordered placed in the Orders of the Day.

### ORDERS OF THE DAY

The Senate took up for consideration from the Orders of the Day a bill of the following title, viz.:

An Act appropriating money for the operation, maintenance, support, and functioning of the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government of the Commonwealth of Kentucky, and the purchase of record books, as provided by Section 338, Kentucky Statutes, 1936 Edition, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees and defraying the expenses of any and all other State obligations for the fiscal years ending June 30, 1939, and June 30, 1940, designating the sources and funds from which said appropriations are to be made, describing the manner in which the same are to be paid, providing for the payment into the State Treasury of all fees and other miscellaneous receipts collected by all the different officers, departments, boards, commissions, institutions, and subdivisions of the State Government, which include all the different agencies

of the State, providing for the establishment of certain revolving funds specifically mentioned, providing for money refund, authorizing and empowering the Governor of the Commonwealth to equitably reduce, or adjust the appropriations made to officers, departments, boards, commissions, institutions, and subdivisions of the State and all other agencies specifically mentioned therein and authorizing the State Budget Officer with the approval of the Commissioner of Finance to make allotments and/or re-allotment from appropriations made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government and other agencies, and authorizing transfers from allowances for one budget class to allowances in other budget class within the same budget unit, when approved by the Commissioner of Finance providing that certain appropriations shall be limited to specific purposes, baring the use of appropriations for certain purposes, and repealing all blanket and continuing appropriations not provided for in this Act, and all appropriations made by any previous act, or acts of the General Assembly of the Commonwealth of Kentucky and repealing all laws or parts of laws in conflict with any of the provisions therein and enacting each section and each subsection as a separate or specific appropriation.

Senator Gilbert moved that consideration of said bill be deferred and that same be allowed to hold its place in the Orders of the Day.

Said motion was agreed to.

Senator Gilbert moved that the Senate do now adjourn.

Said motion was agreed to.

And then the Senate adjourned.

## WEDNESDAY, JANUARY 12, 1938.

The Senate convened and was called to order by the President of the Senate, the Honorable Keen Johnson, Lieutenant Governor.

The Senate was opened with prayer by the Reverend R. B. Kelly, pastor of the Church of the Nazarene, Frankfort, Kentucky.

The roll of the Senate was called, the following Senators answering to their names, viz.:

Wm. R. Attkisson	H. Watt Hillman	John A. Sugg, Jr.
Aubrey Barbour	Wm. H. Jones, Jr.	Jos. P. Tackett
Paul M. Basham	Leo King	J. E. Trager
H. Stanley Blake	J. W. McDonald	Ervine Turner
Ollie J. Bowen	Stanley B. Mayer	Thomas O. Turner
Dr. D. H. Bush	Strother Melton	E. T. Wesley
Waller A. Crockett	E. C. Moore	Otis White
Edwin C. Dawson	J. Lee Moore	O. C. Whitfield
W. C. Farmer	Dr. R. C. Moss	B. M. Williams
Lee Gibson	Ray B. Moss	J. E. Wise
Ralph Gilbert	James C. Rogers	J. M. Wolfubarger
John M. Hall	Ira W. See	
J. Joseph Hettinger	Paul L. Sidebottom	

Senator Dawson moved that the reading of the Journal of the proceedings of Tuesday, January 11, 1938, be dispensed with and the same be approved.

Said motion was agreed to.

Senator Ray B. Moss moved that the rules be suspended and the privilege of the floor be extended to former Senator Pal Garner.

Said motion was unanimously agreed to.

Senator J. Lee Moore moved that the rules be suspended and the privilege of the floor be extended to Messrs. A. F. Likens and George Wipper of Hartford and Franklin, Kentucky, respectively.

Said motion was unanimously agreed to.

Senator Ervine Turner moved that the rules be suspended and the privilege of the floor be extended to the Honorable Robert Humphreys, Commissioner of Highways of Kentucky, and to Messrs. Charles E. Lindon and William Bush.

Said motion was unanimously agreed to.

Senator Gibson moved that the rules be suspended and the privilege of the floor be extended to Judge R. L. McFarland.

Said motion was unanimously agreed to.

Senator McDonald moved that the rules be suspended and the privilege of the floor be extended to former Senator W. A. Frost.

Said motion was unanimously agreed to.

Senator King moved that the rules be suspended and the privilege of the floor be extended to Mr. W. G. Schoefflin.

Said motion was unanimously agreed to.

Senator Wise moved that the rules be suspended and the privilege of the floor be extended to former Senator Clarence E. Nickell and Mrs. Nickell and Mr. B. F. Robertson.

Said motion was unanimously agreed to.



Senator Sugg moved that the rules be suspended and the privilege of the floor be extended to Mr. Frank Peterson and Miss Lena Roberts.

Said motion was unanimously agreed to.

### INTRODUCTION OF BILLS

Bills of the following titles were introduced, ordered printed, and referred as follows, viz.:

By Senator Mayer:

S. B. 25. An Act concerning railroads, regulating the operation of trains, engines, motors, locomotive cranes or pile drivers, providing for the number of employees on the same, prescribing penalties, and repealing all laws in conflict therewith.

To Committee on Common Carriers and Commerce.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. It shall be unlawful for any common carrier by railroad in the State of Kentucky, to run or permit to be run on any of its lines or any part thereof, outside of yard limits, any freight, mixed, work or wreck trains, propelled or drawn by steam, electricity, gasoline or other motive power, that has not at least the following named employees thereon: One engineer and one fireman for each steam locomotive where such train is propelled or drawn by steam; one engineer or motorman and one assistant to such engineer or motorman, where such train is propelled or drawn by electricity, gasoline or any other form of energy; one conductor and two brakemen.

§ 2. It shall be unlawful for any person or persons, corporation or common carrier by railroad, to operate or permit to be operated on any of its tracks in the State of Kentucky, any locomotive, engine or motor used to switch cars, to handle cars, unless said locomotive, engine or motor is manned with a crew of competent employees consisting of not less than one engineer, or motorman, one fireman or assistant to such engineer or motorman, one conductor or foreman and two brakemen or switchmen.

§ 3. It shall be unlawful for any person or persons, corporation or common carrier by railroad, to operate or permit to be operated on any of its tracks in the State of Kentucky, any locomotive, engine, motor locomotive crane, or pile driver, without cars, unless said locomotive, engine, motor, locomotive crane, or pile driver, is manned with a crew of competent employees consisting of not less than one engineer or motorman, one fireman, or assistant and one conductor or flagman.

§ 4. Nothing in this act shall apply to motor cars used by maintenance of way department, signal men, or electric street railways operating in cities or on interurban lines, nor shall this act apply in case of disability occurring to any member of a crew while on the road between terminals, or to relief or wrecking trains where sufficient men are not available.

§ 5. Any person or persons, corporation, or common carrier by railroad, operating any railroad in this Commonwealth who shall willfully violate any of the provisions of this act, shall be liable to the Commonwealth for a penalty of not less than one hundred nor more than three hundred dollars or confined in the county jail for not less than thirty nor more than ninety days for each offense, or may be both so fined and imprisoned, and such penalties shall be recovered by action brought by the Attorney General of the Commonwealth at the direction of the State Railroad Commission, in the Circuit

Court of Franklin County; provided, however, this act shall not apply in case of engine failure between terminals.

§ 6. All laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

§ 7. If any part, subdivision or section of the Act shall be deemed unconstitutional, the validity of its remaining provisions shall not be affected thereby.

By Senator Mayer:

S. B. 26. An Act to repeal Chapter 115 of the Acts of the General Assembly at its 1916 Session, and Chapter 55 of the Acts of the General Assembly at its 1920 Session, and enacting in lieu thereof, an act to provide a stenographer in the County Attorney's Office in Counties containing a city of the first class, prescribing the method of appointment and removal, salary and method of payment of said salary.

To Committee on Municipalities.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Chapter 115 of the Acts of the General Assembly, at its 1916 Session, and Chapter 55 of the Acts of the General Assembly, at its 1920 Session, be and the same are hereby repealed, and there be enacted in lieu thereof, the following, to-wit:

§ 2. That in all counties in this Commonwealth, containing a city of the first class, there is hereby created the office of stenographer to the County Attorney, to be appointed by the County Attorney, for a term of four years, but removable by him at any time.

§ 3. The salary of said stenographer shall not exceed Fifteen Hundred (\$1500.00) Dollars per annum, to be fixed

by the County Attorney, to be paid by the Fiscal Court in such County, and shall be payable out of the county levy, in equal monthly installments.

§ 4. It shall be the duty of said stenographer to do the stenographic work and typewritten work required in the County Attorney's office, and by virtue of the office, said stenographer shall have the same power of administering an oath as a Notary Public.

§ 5. All acts and parts of acts in conflict herewith are hereby repealed.

By Senator Melton:

S. B. 27. An Act relating to county officers, and providing that certain expenses be credited in their settlements as necessary or authorized expenses.

To Committee on Appropriations.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That,

§ 1. Any public officer of any county hereby is authorized to incur and pay as an authorized and necessary expense of his office such reasonable and necessary expenses as are required by law or which may be necessary for the prompt and efficient performance of his official duties imposed by law, including specifically;

(a) The payment of premiums to any corporate surety licensed to do business in the Commonwealth of Kentucky, for executing any official or other bond required by law to be executed by such officer.

(b) The sheriff of each county may employ or retain legal counsel to aid and advise him in the administration of

his official duties. The selection of legal counsel shall be made by the sheriff, subject to the approval of the fiscal court of his county. The sheriff, with the approval of said court, shall fix the fees or compensation to be paid to such legal counsel, and the fees or compensation so fixed and determined shall be paid by the sheriff as a necessary and authorized expense of his office.

§ 2. The expenses authorized in sub-section (a) and (b) of Section 1 herein, shall be paid by the officer incurring said expenses. No liability shall in any event be incurred or imposed upon a county or the State for the payment or reimbursement of any of said expenses, but the fiscal court of the county shall credit such officers with said expenses in the annual settlements of such officers as other authorized and necessary expenses of the said respective officers are allowed and credited.

§ 3. Whereas the various county officials of the Commonwealth of Kentucky who were elected at the regular November, 1937 Elections were authorized or required to qualify on or about the first Monday in January, 1938; and, whereas, many of such officers are required by law to execute bonds for the faithful performance of their official duties; and, whereas, before the sheriffs may qualify as tax collectors they are required to execute certain revenue bonds; and, whereas, many questions constantly arise wherein the respective sheriffs need legal counsel and advice, an emergency is hereby declared to exist and this Act shall become effective immediately upon its passage and approval by the Governor.

§ 4. All laws and parts of laws in conflict herewith, to the extent of such conflict are hereby repealed.

By Senator Ervine Turner.

S. B. 28. An Act requiring the State Highway Commission of Kentucky to pay to cities of the fourth, fifth and sixth



class for the construction of streets in such cities, when same are a part of the state highway and have been constructed and paid for or obligated to be paid for by the property owners abutting thereon.

To Committee on Appropriations.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That in all cases where the cities of the Fourth, Fifth and Sixth classes have constructed or re-constructed streets in said cities at the expense of the abutting property owners, which are a part of the State Highway, which has been constructed by the State Highway Commission, up to the corporate limits of such city, thus making said street a part of said highway, and where the construction through said city is as good or better than the road leading to said city on each side thereof, then said State Highway Commission is hereby directed to pay to said cities for the use and benefit of the said abutting owners along the streets so constructed an amount equal to actual cost of the construction of said street through the city, but not to exceed the cost of construction of a like type of road for the same distance outside of said city.

§ 2. All laws and parts of laws in conflict herewith are hereby repealed to the extent of said conflict.

By Senator See.

S. B. 29. An Act to amend and re-enact Section 439 of the Civil Code of Practice.

To Committee on Courts & Legal Procedure.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Section 439 of the Civil Code of Practice is hereby amended and re-enacted so that said section so amended will read as follows:

“Proceedings to enforce when allowed; parties. After an execution of fieri facias, directed to the county in which judgment was rendered, or to the county of the defendant’s residence, is returned by the proper officer, either as to the whole or part thereof, in substance, no property found to satisfy the same, the plaintiff in the execution may institute an equitable or legal interest, and all other property to which the defendant is entitled, and for subjecting the same to the satisfaction of the judgment; and in such actions, persons indebted to the defendant, or holding money or property in which he has an interest, or holding evidences or securities for the same, may be also made defendants’’, or, *the plaintiff in the execution may file in the office of the Clerk of the Court in which the judgment was rendered his motion to redocket the said cause and his supplemental petition setting forth the fact that his execution has been returned unsatisfied, whereupon the cause shall be transferred to the equity docket and proceed thereafter under the provisions of chapter 4 of title 10 of said Civil Code. In the event of such procedure notice of the motion to redocket and summons upon the amended petition in equity shall be served upon the execution defendant in any county in which he may be found, or if necessary he may be proceeded against by constructive service under the provisions of Article 2 of Chapter 2 of the Civil Code.*

By Senator White.

S. B. 30. An Act relating to the admission to practice law and providing that disabled soldiers, sailors or marines who served in the World War and have a disability caused by said service and who are honorably discharged from said

service and who are morally and otherwise qualified and in addition thereto have served as County Court Clerk, County Judge or Circuit Court Clerk of this State or as a member of the General Assembly of this State, and who has studied law for a period of one year, shall be permitted to take the bar examination of this State for admission to practice law and upon said examination the said applicant shall be given a ten per cent increase in his earned grade on all subjects and when said applicant has failed to pass all subjects but has passed one-third of said subjects, he be given the privilege of taking the remaining two-thirds at the next or some regular examination of the Board of Bar Examiners and continue on the one-third basis until he has successfully passed the examination.

To Committee on Courts and Legal Procedure.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

When any applicant for admission to practice law in the State of Kentucky who shall have been a disabled soldier, sailor or marine and who served in the World War and has a disability because of such service and who was honorably discharged from said service and who shall possess the required moral qualifications and who has served in either of the following capacities, to wit: County Court Clerk, County Judge or Circuit Court Clerk or a member of the General Assembly of this State and in addition thereto has studied law for a period of one year and shall file with the Board of Bar Examiners of this State a certificate of the one year scholastic study of law together with a certified copy of his honorable discharge and a statement from the Veterans Administration showing that he is a disabled veteran of the World War, shall be deemed to have had all the academic and legal require-

ments of this Act and shall be eligible to, and shall, upon his application accompanied by the foregoing certificate, be admitted to an examination to practice law in the State of Kentucky in all of its courts before the said Board of Bar Examiners.

Any disabled veteran who shall have made an average of seventy-five (75%) per cent. on the subjects shall be granted admission to practice law in all of the said Courts of this State, provided however that there is to be added to the applicant's earned grade ten (10%) per cent. because of his World War Service and his disability connected with said service. Where said applicant passes one-third or more of said subjects and not all of said subjects, he shall be given the privilege of taking the remaining subjects at the next or some other regular examination of said Board of Bar Examiners and may continue on the one-third basis until he has successfully passed all of the examinations and upon completion of said examination the said Board of Bar Examiners shall certify the same to the Court of Appeals of Kentucky and the said Court shall issue to the said applicant a certificate entitling him to practice law in all the Courts of this State.

By Senator White.

S. B. 31. An Act to repeal and re-enact Section 388, Carroll's Kentucky Statutes, 1936 Edition, relating to the procurement and payment of record books.

To Committee on Appropriations.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 388 Carroll's Kentucky Statutes, 1936 Edition, be and the same is hereby repealed and the following enacted in lieu thereof, namely:

*The record books required by circuit and county court clerks shall be procured by the clerk upon the order of the court of which he is clerk, and shall be paid for by the state as now provided.*

By Senator White.

S. B. 32. An Act to amend Section 4821, Carroll's Kentucky Statutes, relating to weights.

To Committee on Kentucky Statutes No. 2.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 4821, Carroll's Kentucky Statutes, 1936 Edition, be amended and when so amended will read as follows:

Bushels, weights of different articles.—The following shall constitute a bushel of each article named, respectively:

Wheat, sixty pounds.

Shelled corn, fifty pounds.

Corn in ear, seventy pounds from the first day of November to the first day of January following, and from first day of January to first day of November, following, sixty-eight pounds.

Ear corn in shuck, seventy-five pounds.

Rye, fifty-six pounds.

Oats, shelled, thirty-two pounds.

Barley, forty-seven pounds.

Irish potatoes, sixty pounds.

Sweet potatoes, fifty-five pounds.

White beans, sixty pounds.

Castor beans, forty-five pounds.

Clover seed, sixty pounds.



Timothy seed, forty-five pounds.

Flax seed, fifty-six pounds.

Millet seed, fifty pounds.

Peas, sixty pounds.

Bluegrass seed, fourteen pounds.

*Korean seed, twenty-five pounds.*

Buckwheat, fifty-six pounds.

*Apples, forty-four pounds.*

Dried apples, twenty-four pounds.

*Peaches, fifty pounds.*

Dried peaches, thirty-nine pounds.

Onions, fifty-seven pounds.

Bottom onion sets, thirty-six pounds.

Salt, fifty pounds.

*Stone coal, eighty pounds.*

The term coal includes anthracite, cannel, bituminous and other mined coal.

Bran, twenty pounds.

Plastering hair, eight pounds.

Turnips, sixty pounds.

Unslacked lime, thirty-five pounds.

Corn meal, fifty pounds.

Fine salt, fifty-five pounds.

Hungarian grass seed, fifty pounds.

Ground peas, twenty-four pounds.

Orchard grass seed, fourteen pounds.

English bluegrass seed, fourteen pounds.

Hemp seed, forty-four pounds.

All laws or parts of laws in conflict with the provisions of this act are hereby repealed.

By Senator White.

S. B. 33. An Act to amend and re-enact Section 4399, Sub-section 32, Carroll's Kentucky Statutes, 1936 Edition, providing for per diem of School Board members.

To Committee on Education.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 4399-32 of Carroll's Kentucky Statutes, 1936 Edition be and same is hereby amended and re-enacted so that said section when so amended and re-enacted, will read as follows:

Members of the County Boards of Education shall receive no salary, but each member shall receive a per diem of Ten (\$10.00) dollars for actual attendance of the Board or in the performance of their duties authorized by the Board, but in no case shall the per diem exceed one hundred twenty (\$120.00) dollars per year. All claims shall be made out according to law and filed with the clerk of the board and shall be approved and paid as other claims against the board.

By Senator J. Lee Moore.

S. B. 34. An Act to amend Section 2741d-2, Carroll's Kentucky Statutes, 1936 Edition, relating to libraries, boards of trustees, powers members, appointments and term, qualifications and expenditures not to exceed net income and adding to said section auditoriums and club rooms and other public accommodations which have been or may be constructed in connection with public libraries and providing for a board of trustees and giving said board of trustees the power to issue bonds and notes not exceeding ten thousand dollars (\$10,000.00) and providing for the payment of such indebtedness, limiting the amount of said indebtedness which the board may incur for equipping said buildings.

To Committee on Library and Historical Records.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 2741d-2, Carroll's Kentucky Statutes, 1936 edition, being part of the Acts of the General Assembly of 1920, Chapter 146, be and the same is hereby amended by adding thereto the following:

Except that in the event an auditorium or club room or other such public accommodations have been or shall be constructed in connection with the public library and are thereby an integral part of the library building, said Board of Trustees may in their discretion and if they deem it necessary, issue bonds or execute notes in the sum of not exceeding Ten Thousand Dollars (\$10,000) for the purpose of paying off any indebtedness that the corporation may owe or any indebtedness that the corporation may incur for the purpose of properly equipping said building for the purposes for which it was constructed or properly completing the construction thereof, or of making necessary additions thereto in order to properly serve its purposes. The said bonds or notes may be secured by any or all real property or personal property owned by said corporation. In the event bonds are issued, they shall be designated as "library bonds", and the Board of Trustees shall by an appropriate resolution fix the date and maturity of such bonds, the rate of interest they shall bear and the form they shall bear and where they shall be payable. Said Board shall determine when and at what price and how they shall be sold; providing that any premium which may be obtained from the sale of said bonds shall constitute a sinking fund for their ultimate retirement. As the bonds are sold or when the money is received on the executed notes, the proceeds shall be placed to the credit of said corporation in some bank or banking institution or trust company, but shall be kept in a separate account and shall be used only for the purpose for which the bonds were issued or the notes were

executed. Said Board shall set up each year in its annual budget a sufficient amount for the payment of the interest on the bonds or notes.

By Senator McDonald.

S. B. 35. An Act to prevent the spread of venereal diseases through marriage and to provide for an antenuptial physical examination to determine the presence of venereal diseases and to provide a penalty for the violation of the provisions of this Act.

To Committee on Kentucky Statutes No. 1.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Every person making application for license to marry shall at any time within fifteen days prior to such application be examined as to the existence of non-existence in such person of any venereal disease, and it shall be unlawful for the County Clerk of any County to issue a license to marry to any person who shall have failed to present and file with such County Clerk a certificate setting forth that such person is free from any venereal disease. In order to obtain a certificate as required in this Act, each party to a proposed marriage shall, within fifteen days prior to making application for license to marry, submit to medical examination for the presence of venereal disease. Such examination shall include physical examination and laboratory test or tests. All laboratory tests required by this Act shall be made by the State Department of Health of Kentucky, or a laboratory which is approved by the State Board of Health of Kentucky. Such tests as may be made by the State Department of Health of Kentucky shall be free of charge. Laboratory tests shall

include a Kahn test for syphilis, a dark field test where indicated, or any other recognized test or tests approved by the State Board of Health of Kentucky, and a microscopic test for gonococci when indicated. Each specimen for laboratory tests for syphilis and for gonorrhea shall be submitted in a manner prescribed by the State Board of Health of Kentucky. If, on the basis of negative laboratory and clinical findings the physician in attendance finds no evidence of venereal disease, he shall issue a certificate to the examinee to that effect on a form prescribed by the State Health Commissioner of Kentucky. Such certificate of negative findings as to each of the parties to a proposed marriage shall be filed with the County Clerk at the time application for a license to marry is made.

Provided: In the event that the female applicant for marriage license makes an affidavit to the effect that marriage is necessary for the reason that she is with child and that such marriage will confer legitimacy on the unborn child, the County Judge of the County where the application for marriage license is made is hereby empowered and authorized to hear and determine on medical testimony the question of pregnancy and on adjudging that pregnancy exists shall order the County Clerk to issue the marriage license provided all the other requirements of laws regulating the issuance of marriage licenses are complied with even though the physical examination and laboratory test or tests reveal that one or both have a venereal disease or diseases and in said order the County Judge shall further provide that one or both having venereal disease or diseases shall be treated for same as provided by the State Board of Health of Kentucky.

Provided further: If both applicants for a marriage license have the same venereal disease or diseases and if there exists sterility in one or both of said applicants, the County Judge of the County where the application for marriage license is made is hereby empowered and authorized to hear medical testimony on the question of the existence of sterility



and of the probability of spread of said venereal disease or diseases through marriage and on adjudging that sterility exists in one or both of said applicants and that both said applicants have the same venereal disease or diseases shall order the County Clerk to issue the marriage license provided all other requirements of laws regulating the issuance of marriage licenses are complied with and in said order the County Judge shall further provide that both parties to said proposed marriage shall be treated for venereal disease or diseases as provided by the State Board of Health of Kentucky.

§ 2. When an applicant has been refused a marriage license, such applicant shall have the right to appeal within sixty (60) days from the date of such refusal to the circuit court, in the county wherein application was denied. The Court shall try such appeal summarily without the intervention of a jury upon the evidence and certificate or certificates of the medical examiner or examiners, and such other pertinent evidence as may be offered and if the applicant is found free of venereal disease the Court shall order the County Clerk to issue a license, provided all the other requirements of laws regulating the issuance of marriage licenses are complied with.

§ 3. A license issued in accordance with the provisions of this Act shall be valid for thirty (30) days, after which time it shall become invalid.

§ 4. Any County Clerk who shall unlawfully issue a license to marry to any person who fails to present and file a certificate as required in this Act and any physician who shall knowingly and wilfully make any false statement in any certificate given by such physician under this Act and any other person who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and upon conviction thereof shall be fined not more than One Hundred (\$100.00) Dollars or imprisoned for not more than thirty (30) days in jail, or both.

By Senator Sidebottom.

S. B. 36. An Act creating a division of loose-leaf tobacco markets or warehouses consisting of five directors, four of whom to be appointed by the Governor and fixing their compensation and the fifth to be the commissioner of agriculture, ex-officio, and empowering and directing the directors of the said division of markets to establish and promulgate official standard of grades for Burley, Green River, One-sucker, dark fired tobacco and dark tobacco not fired, not included in either Green River or One-sucker variety or type; providing for the inspection, grading and marketing of such tobacco in all loose-leaf tobacco warehouses or markets, the appointment of inspectors and other employees and fixing of their compensation, the fixing of fees and the collection thereof, the auditing of the division in performance of this Act; and to prohibit the violation of this Act and prescribe penalties therefor.

To Committee on Agriculture and State Fair.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. *Declaration of Policy.*

In order to promote, foster and encourage the intelligent and orderly marketing of loose-leaf tobacco and to eliminate speculation and waste and to stabilize the marketing of same, this act is passed.

§ 2. *Definitions as Used in This Act.*

(a) The term "loose-leaf tobacco" means Burley, Green River, One-sucker, dark fired tobacco and dark tobacco not fired, but not included either in the Green River or One-sucker variety or type, exposed for sale in the leaf, hand, bundle or basket, after being cured, stripped and prepared for sale.

(b) The term "loose-leaf tobacco market" should in-

clude all warehouses, buildings or places maintained by persons or corporations where loose-leaf tobacco is offered for sale or sold at public auction.

(c) The term "director" shall mean director of the division of loose-leaf tobacco markets.

(d) The term "commissioner" shall mean the commissioner of agriculture of the State of Kentucky.

(e) The term "Governor" shall mean the Governor of the Commonwealth of Kentucky.

(f) The term "inspector" shall mean inspectors of loose-leaf tobacco offered for sale in loose-leaf markets.

(g) The term "agriculture college" shall mean the College of Agriculture of the University of Kentucky at Lexington, Fayette County, Kentucky.

(h) The term "seller" shall mean warehousemen, loose-leaf tobacco markets and his or its representatives offering for sale or selling loose-leaf tobacco.

§ 3. There is hereby created a division of loose-leaf tobacco markets consisting of five members, one of whom shall be the commissioner of agriculture, ex-officio. The Governor of the Commonwealth of Kentucky, with the advice of the commissioner of agriculture, shall appoint the other four members, two of whom shall be tobacco growers and the other two shall be tobacco warehousemen; and the four directors appointed by the Governor shall each receive a salary of \$200.00 per month to be paid out of the funds hereinafter provided.

§ 4. The directors, with the approval of the Governor are hereby empowered and directed:

(a) To establish and promulgate from time to time official standard grades for loose-leaf tobacco which will show the classification, quality, condition and other characteristics of such tobacco and which grades shall conform as far as is practicable to the established grades now generally used and recognized in the Commonwealth of Kentucky.

(b) On any and all loose-leaf tobacco markets where

graders are not made available by the Government of the United States, to appoint, superintend, control and discharge such inspectors or graders and other employees as in their discretion may be deemed necessary for the purpose of inspecting and grading all loose-leaf tobacco produced and offered or exposed for sale in this State on loose-leaf tobacco markets.

(c) To enter and inspect personally, or through authorized agents each place within the State of Kentucky where loose-leaf tobacco is produced, packed, stored, sold, shipped, transported, offered or exposed for sale or delivered for shipment, and inspect such places and grade all loose-leaf tobacco found in any such places.

(d) To fix, assess and collect fees for inspecting and grading looseleaf tobacco sufficient to meet the costs of such inspecting and grading, which fees shall be paid by the seller but not to exceed one mill on each pound of loose leaf tobacco so inspected, graded and sold.

(e) To label each pile or basket of loose-leaf tobacco offered for sale in a loose-leaf tobacco market according to the grade, classification, condition or characteristics found.

(f) To require each pile or basket of loose-leaf tobacco sold, offered or exposed for sale to be labeled according to the grade found by the official inspectors appointed under authority of this act, where such services are not performed by graders on loose-leaf markets in this State furnished by the United States Government.

#### § 5. *Loose-Leaf Markets.*

That any corporation, company, partnership or individual engaged in the business of warehousemen for the purpose of receiving, grading, handling, prizing or storing loose-leaf tobacco shall upon receipt of loose-leaf tobacco grade it into distinct and proper grades, as provided by this Act, and weigh same and shall give warehouse receipt therefor to the owner or consignor thereof setting forth each grade and the number of pounds thereof; and after so doing said corpora-



tion, company, partnership or individual shall plainly mark the name of the owner or consignor of said loose-leaf tobacco upon the basket wherein any part of same is deposited, and each separate grade shall be placed upon a separate basket so marked with the number of pounds therein and the grade thereof and the date upon which the said loose-leaf tobacco was so received by such warehousemen.

It shall be the duty of all warehousemen, or other persons operating a loose-leaf tobacco market to arrange in rows the baskets containing one certain grade, and same shall be offered for sale at public auction in lots of not more than three thousand pounds and after the completion of the sale of any particular grade the total sale price of such grade of loose-leaf tobacco shall be divided by the number of pounds sold on that particular day or sale, and the average price per pound of such grade thus ascertained shall be paid to the owner or consignor thereof in proportion to the number of pounds deposited by him, and for which he holds the warehousemen's receipt, less the usual and reasonable floor and selling charge.

§ 6. All warehouse receipts so issued by loose-leaf tobacco markets shall be consecutively numbered; shall have the name of the owner or consignee written therein; shall bear thereon the date such loose-leaf tobacco is so receipted; shall have written therein the character and amount of lien or mortgage, if any, upon tobacco so received; and the name of the person holding the lien or mortgage; and such receipts shall be signed by the proper officer of the corporation, company, partnership or individual receiving same. If such receipt be lost or destroyed it shall be the duty of the warehousemen or loose-leaf tobacco market to issue the owner another receipt and mark across or upon the face thereof the word "duplicate."

§ 7. All warehouse of loose-leaf tobacco market receipts so issued by a corporation, company, partnership or individual engaged in the business as above set forth shall be negotiable and transferrable by endorsement in blank or by



special endorsement and with like liability as bills of exchange now are and with like remedy thereon. And it is provided that every such warehousemen or loose-leaf tobacco market may in such receipts agree and bind themselves to pay the person rightfully holding the same and entitled thereto the value of the property described therein, in the event of loss or damage from any cause while in the possession of such warehousemen or loose-leaf tobacco market.

§ 8. It shall be the duty of such warehousemen or loose-leaf tobacco market to have some person or persons competent to sort and separate such tobacco into baskets or containers into the proper and established grades as herein provided and to weigh same and note the weight thereof upon the label of said such basket or container and to label said baskets or containers, as herein provided, and the tobacco so sorted and labeled shall then be inspected and graded as provided in this Act by duly authorized inspectors or graders as herein provided.

§ 9. That it shall be the duty of any tobacco warehousemen or loose-leaf tobacco market, corporation, firm or individual, who shall receive or who shall undertake to receive or take care of loose-leaf tobacco, for sale at public auction, whether with or without compensation or reward, to post or cause to be posted, a notice in a conspicuous place upon the premises of such warehouse or loose-leaf tobacco market, corporation, firm or individual, stating the number of pounds in the aggregate actually sold, and the average price per pound received on account of each day's sale for each grade sold, and the gross average price per pound of all tobacco thus sold.

§ 10. Said notice shall be posted not later than nine o'clock A. M. on the day following each sale or sales.

§ 11. That on and after the first day of August, 1938, every individual, firm, company, or corporation conducting a warehouse or loose-leaf tobacco market business in Kentucky where loose-leaf tobacco is sold at public auction whether prized in hogsheads or sold in the hands loose, shall keep a

correct number of the pounds of loose-leaf tobacco sold upon the floor of his house daily, also the number of pounds of each particular grade of tobacco as established herein, sold upon the floor of his house daily and on each succeeding Monday of each succeeding week until the first day of March of each succeeding year, the proprietor or manager of such warehouse or loose-leaf tobacco market shall make a statement under oath of all the tobacco so sold upon the floor of his warehouse or loose-leaf tobacco market during the immediately preceding week, and in such report shall designate the total number of pounds of each grade of such tobacco sold and the average price received therefor, the gross total pounds of tobacco and the average price received therefor and also shall designate how the total number of pounds of such tobacco was divided as between the following types or varieties of tobacco: Burley, Green River, One-sucker, dark fired tobacco and dark tobacco not fired, but not included either in the Green River or One-sucker variety or type, and the price paid for same in dollars and cents and shall transmit the said statement by registered mail at once to the Commissioner of Agriculture at Frankfort, Kentucky. The report so made to the Commissioner of Agriculture on blanks which shall be furnished by him, shall be so arranged and classified as to show the number of pounds sold for dealers or rehandlers which shall not include tobacco offered for sale but rejected; and the number of pounds sold by proprietor of the warehouses or loose-leaf tobacco market for his own account or for the account of some other warehouse where same has been re-sold in said other warehouse, or has been sold previously upon some other market, and shall include with said report a check payable to the division of loose-leaf tobacco markets of Kentucky for the total amount of fees due and owing upon the tobacco sold.

§ 12. The Commissioner of Agriculture shall cause said statement to be accurately copied into a book to be kept for this purpose and shall keep separate and a part the statements returned to him from such loose-leaf tobacco markets in the

state so as to show the number of pounds sold by each market for the sale of loose-leaf tobacco, separated according to grade, the number of pounds sold by purchaser and the number of pounds resold on each market; shall keep said book open to the inspection of the public and shall cause said reports to be published on or before the 10th day of said month in a bulletin issued by the Agricultural Department, and in one or more journals published in the interest of the tobacco industry or the farmers and having a general circulation in this State.

§ 13. The seller is hereby required to pay the fees fixed under authority of this Act, and furnish necessary baskets and tickets, but shall not charge the grower, owner, or consignor of loose-leaf tobacco in excess of the fee fixed under authority of this Act.

§ 14. The seller is required to make known to the buyer the grade of each pile or basket of loose-leaf tobacco as found by the official inspector or grader.

§ 15. Loose-leaf tobacco offered or exposed for sale shall not be labeled by any other person than a duly authorized inspector or grader, except under the supervision of duly authorized inspector or grader.

§ 16. Such tobacco warehouse or loose-leaf tobacco market in the State of Kentucky shall on or before the first day of July, 1938, and on or before the first day of July of each succeeding year by written application, duly verified, request of the Secretary of Agriculture a license to operate a loose-leaf tobacco market for the current season and shall in said application accurately set forth the area of its floor by feet, the number of its graders, its proposed charge for floor and sale expenses and the number of pounds of loose-leaf tobacco sold over its floor by bona fide sale during the proceeding tobacco sales season, and shall enclose in said application its certified check payable to the Division of loose-leaf tobacco markets in the sum of One Hundred (\$100.00) Dollars.

§ 17. Upon the receipt of such application it shall be

the duty of the Commissioner of Agriculture with the advice of the directors of the division of loose-leaf tobacco markets, to issue a license to the said tobacco warehouse or loose-leaf tobacco market so applying, for the current tobacco selling season, and no warehouse or loose-leaf tobacco market shall offer for sale any loose-leaf tobacco until said license is displayed in a prominent place at or near the office of said warehouse or market.

§ 18. The Governor of the Commonwealth of Kentucky shall appoint the four directors of the division of loose-leaf tobacco markets herein on or before the first day of June, 1938, subject to good behavior for a term of two years, and they shall immediately qualify by taking the constitutional oath and executing approved bond to the Commonwealth of Kentucky in the penal sum of One Thousand (\$1000.00) Dollars, conditioned upon the faithful performance of their duties as such.

§ 19. The said four directors, together with the Commissioner of Agriculture, acting ex officio as a fifth director, shall immediately make a survey of the tobacco warehouses and loose-leaf tobacco markets of the Commonwealth of Kentucky and determine the number of inspectors or graders necessary to exercise adequate supervision over the loose-leaf tobacco markets in this state, and shall thereupon appoint capable men, skilled in the handling and grading of tobacco according to the established grades and qualities now recognized, or that may hereafter be fixed and established by the Division of loose-leaf tobacco markets in this state, who shall be more than twenty-five years of age, of good character and who shall hold this position subject to the pleasure of the said division of loose-leaf tobacco markets of Kentucky.

§ 20. Each tobacco inspector or grader so appointed shall be paid a salary of Two Hundred Dollars (\$200.00) per month for each month, or part of month, that the loose-leaf tobacco markets of the State of Kentucky are in operation, during his term of service.



§ 21. Such tobacco inspector or grader before entering upon his duties as such shall for a period of at least thirty days make careful study of the grades and qualities of tobacco recognized and established by the division of loose-leaf tobacco markets of this State, and said study and training shall be under the control and supervision of the Department of Agriculture of the University of Kentucky.

§ 22. Such tobacco inspectors or graders shall be paid the sum of Four Dollars (\$4.00) per day for each day that he so studies tobacco grades and quality under the supervision of the College of Agriculture of the University of Kentucky, but shall in no year be paid for more than thirty days of such study.

§ 23. The division of loose-leaf tobacco markets is hereby authorized to pay to the College of Agriculture of the University of Kentucky a reasonable tuition for each of the inspectors or graders who shall receive instruction under the control and supervision of the College of Agriculture.

§ 24. The inspectors and graders herein shall make daily report to the Commissioner of Agriculture, Frankfort, Kentucky, by registered mail, or by personal delivery, of the conditions existing in the several warehouses of loose-leaf tobacco markets to which they may be assigned by the division of loose-leaf tobacco markets.

§ 25. The division of loose-leaf tobacco markets is hereby created for the purpose of exercising a general supervision and control over all loose-leaf tobacco markets, operated and maintained in the State of Kentucky, and is given full authority to investigate unfair practices or unreasonable charges made for floor space, or tobacco sales, or the inspection of tobacco by any warehouse or loose-leaf tobacco market operating in the State of Kentucky, and its jurisdiction is co-extensive with the State lines.

§ 26. The division of Loose-leaf tobacco markets upon the receipt of a written and verified complaint from an actual bona fide tobacco grower in the State, setting out facts show-



ing unfair treatment therefrom, or excessive charges made by any warehousemen or loose-leaf tobacco market in the State of Kentucky in the matter of the sale of his or their tobacco shall if they deem such complaint made in good faith and evidencing sufficient grounds, serve written notice upon the owners, proprietors or managers of such warehouse or loose-leaf tobacco market so complained of, setting out in detail the nature of the complaint, and the name, or names, of the complainants, and requiring said owners, proprietors, or managers of said warehouse or loose-leaf tobacco market to show cause, if any they have, why their license to operate such a warehouse or loose-leaf tobacco market for the sale of tobacco should not be revoked for a time or period in the reasonable discretion of the division of loose-leaf markets. A reasonable time shall be given to the owners, proprietors or managers of such warehouse or loose-leaf tobacco market so notified to prepare their defense and introduce affidavits to show cause why their license should not be revoked. And thereafter should the division of loose-leaf tobacco markets find that said cause of complaint was justified, and that unfair practices or excessive charges or fees have been made or had by such warehouse or loose-leaf tobacco market, then they shall in their discretion revoke the license of such warehouse or loose-leaf tobacco market for such length of time as they may find the circumstances to justify.

§ 27. The finding of the division of loose-leaf tobacco markets as to whether the license of the warehouse or loose-leaf tobacco market should be revoked or cancelled shall have the force and effect of a judgment and shall be subject to review by the Franklin Circuit Court, as in a suit in equity, upon the petition of the parties aggrieved thereby.

§ 28. The Governor of the Commonwealth of Kentucky, with the advise of the division of loose-leaf tobacco markets of Kentucky, shall appoint a qualified auditor, who shall maintain offices in the Department of Agriculture of Kentucky, and shall receive all taxes assessed herein, and all fees levied and

paid herein and enter same upon the books to be kept and maintained by him for that purpose and shall then pay same over to the Treasurer of the State of Kentucky, and receive his receipt therefor. The treasurer of the State of Kentucky shall deposit said funds in a separate account to the credit of the division of loose-leaf tobacco markets of Kentucky and shall be liable upon his official bond therefor.

§ 29. The salaries and allowances herein provided shall be paid when due upon the order of the Secretary of Agriculture, signed by him, and countersigned by the auditor of the division of loose-leaf tobacco markets, and drawn against the Treasurer of the State of Kentucky, charged to the division of loose-leaf tobacco markets, and such drafts so drawn shall be duly honored by the Treasurer of the State of Kentucky, and the payment of same shall release him from all liability for the amount so paid.

§ 30. The division of loose-leaf tobacco markets is hereby given authority to hire additional auditors and accountants if same become reasonably necessary, for the proper administration of its affairs, and to pay them a reasonable compensation therefor, not to exceed Two Hundred Dollars (\$200.00) per month for every month so employed.

§ 31. The auditor of the division of loose-leaf tobacco markets shall be paid an annual salary of Three Thousand (\$3,000.00) Dollars and shall be appointed for a term of two years, conditioned upon his good behavior, and shall take the constitutional oath and execute approved bond to the Commonwealth of Kentucky in the penal sum of Ten Thousand (\$10,000.00) Dollars, conditioned upon the faithful performance of his duties.

§ 32. Any person, or persons, not acting under the direction or supervision of the division of loose-leaf tobacco markets or the duly appointed inspectors thereof, who shall change, alter or remove any label or marker placed upon any bundle or basket of loose-leaf tobacco in loose-leaf tobacco

markets, as provided herein, shall be guilty of a misdemeanor and punished as hereinafter provided.

§ 33. Any person, firm, association, or corporation who shall violate any provision of this act shall be punished by a fine or not less than Five Dollars (\$5.00) nor more than Five Hundred Dollars (\$500.00) for each offense.

§ 34. Any director or inspector of the division of loose-leaf tobacco markets with the approval of the Commissioner of Agriculture is hereby empowered and directed to cause prosecution for violation of this Act to be instituted through the Commonwealth's attorneys of this State, or otherwise in any county of the State of Kentucky where, in his opinion, violations are found.

§ 35. All acts or laws, or parts of acts or laws in conflict herewith are hereby expressly repealed.

§ 36. If any section in this Act shall be declared unconstitutional for any reason, the remainder of this Act shall not be affected thereby.

By Senator See.

S. B. 37. An Act to propose an amendment to Section 100 of the Constitution so as to permit women to hold public office.

To Committee on Constitutional Amendments.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That upon the concurrence of three-fifths of all members elected to each House of the General Assembly of the Commonwealth of Kentucky, the ayes and nays being taken thereon and entered in full in their respective journals, Section One hundred (100) of the Constitution be and it is

hereby proposed to be amended by adding thereto, the following:

*“Women possessing the requisite qualifications shall be eligible to hold any public office.”*

§ 2. This amendment shall be published and submitted to the voters of the State for their ratification or rejection at the time and in the manner provided under Sections two hundred fifty-six and two hundred fifty-seven of the Constitution and Section one thousand four hundred fifty-nine of Baldwin's Revised Edition of Carroll's Kentucky Statutes.

By Senator Tackett.

S. B. 38. An Act to amend and re-enact Section 913-1, Kentucky Statutes, 1936 Edition.

To Committee on Municipalities.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 913-1, Carroll's Kentucky Statutes, 1936 Edition be, and same is hereby amended so that as amended the same shall read as follows:

That the various counties of the Commonwealth of Kentucky be, and they are authorized to enter into contracts with any city in the Commonwealth owning and operating its own municipal or city hospital for hospitalization of poor and indigent persons, residents of the counties so contracting, who may require hospitalization and are financially unable to pay for same, and to pay for same out of the county funds: Provided however, that in any county of the Commonwealth wherein there is no city owned hospital, the Fiscal Court of such county, or counties, are authorized to enter into such

contracts with any privately owned hospital of such county, OR SOME ADJOINING COUNTY and pay for same as herein provided.

By Senator Rogers.

S. B. 39. An Act repealing, amending and re-enacting Section 4135, Kentucky Statutes, Carroll's 1930 Edition, as amended by Section 2 of Chapter 129 of the Acts of the General Assembly of the Commonwealth of Kentucky, 1932 Regular Session, which section relates to revenue and taxation and duties of outgoing sheriffs as delinquent tax collectors and delinquent tax collectors appointed by county judges when outgoing sheriffs fail to qualify, and removing the discrimination as to their compensation; repealing all acts and parts of acts in conflict with this act; and declaring an emergency.

To Committee on Revenue and Taxation.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That section 4135, Kentucky Statutes, Carroll's 1930 edition, as amended by section 2 of Chapter 129 of the Acts of the General Assembly of Kentucky for 1932 regular session, be and the same is hereby repealed, amended and reenacted, so that said section as amended and reenacted shall read as follows, viz.:

“The outgoing sheriff, as soon as his successor has been qualified and his bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records and other property held by virtue of his office and shall make a full and complete settlement of his accounts as sheriff. Except that the outgoing sheriff shall keep in his possession all unpaid tax bills and shall collect and account for same as provided



by law, and shall have until the first day of May after his term of office has expired to make his settlement with the auditor of public accounts and the fiscal court of his county and to receive his quietus, and immediately thereafter he shall deliver these records to his successor. On the failure of any outgoing sheriff for ten days to comply with the provisions of this section, he shall be deemed guilty of a misdemeanor and, on conviction, be fined in a sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) and be liable on his bond for any default."

§ 2. That all acts and parts of acts in conflict with this act to the extent of the conflict are hereby repealed.

§ 3. Whereas, there exists a discrimination in the compensation allowed to those delinquent tax collectors who are outgoing sheriffs and the delinquent tax collectors who are appointed by County judges when outgoing sheriffs decline to qualify, which discrimination this act will remove, and to enable the outgoing sheriffs who hereafter qualify as delinquent tax collectors to become the beneficiaries of said removal, an emergency is hereby declared to exist, and this act shall become a law and become effective from and upon its passage by the General Assembly and its approval by the Governor.

The following resolutions were introduced, ordered printed and referred, the titles of the same being as follows, viz.:

By Senator Hillman.

S. Res. 10. Resolution authorizing Eva Jane Pennington, by her guardian or next friend, or her personal representative, to sue the Commonwealth of Kentucky and the Department of Highways of Kentucky, or either.

To Committee on Kentucky Statutes No. 1.

Said resolution is as follows, viz.:

WHEREAS, on the nineteenth day of September, 1936, an automobile in which Eva Jane Pennington was a passenger struck a sag or hole in the paved portion of State Highway No. 23 between Greenup and Fullerton, Kentucky, and was precipitated over an embankment, thereby inflicting permanent, and perhaps fatal, injuries on said Eva Jane Pennington; and,

WHEREAS, at the time of the accident said highway was under supervision, maintenance, and control of the Commonwealth of Kentucky and the Department of Highways of Kentucky, and it is alleged that said Department of Highways of Kentucky had, or by the exercise of ordinary care could have had, notice of the dangerous condition of said highway; and,

WHEREAS, it is alleged that the negligence of said Commonwealth and its Department of Highways, and its employees, in failing to repair said sag or hole, and in failing to give warning of the dangerous condition of said highway to drivers of motor vehicles thereon, was the direct and proximate cause of the injuries to said Eva Jane Pennington; and,

WHEREAS, her parents are in humble circumstances, and her father makes his living by daily labor; and whereas, on account of the nature of her injuries, it is necessary for said child to receive hospital care for the remainder of her life, and, on account of their indigent circumstances, said child's relatives are unable to defray the expenses incident thereto,

NOW, in order that the rights of the parties may be determined by judicial action, and the question of negligence, if any, causing said injury to said Eva Jane Pennington may be determined by judicial action,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Eva Jane Pennington, an infant, of Westwood

Station, Boyd County, Kentucky, be, and she hereby is, authorized, empowered and permitted, by her guardian or next friend, or, in the event of her death, her personal representative be, and he hereby is, authorized, empowered and permitted to file a suit or suits against the Commonwealth of Kentucky and the Department of Highways of Kentucky, or either of them, for the purpose of determining the liability of the Commonwealth of Kentucky and the Department of Highways of Kentucky, or either, for such injuries and damages, if any there be, arising from the above stated facts; and, in the event any judgment is recovered by said Eva Jane Pennington's guardian or next friend, or by her personal representative, or either of them, or said judgments or suits are compromised and settled, the judgments or amounts agreed on in compromise, if any, shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Said action or actions may be brought in any county having jurisdiction of the parties and subject matter.

§ 3. Either party to said suit may appeal from any judgment which may be entered therein, as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky, in the same way as any other civil case.

By Senator See.

S. Res. 11. Resolution authorizing Mary Jane Hayes and Tom Hayes to sue the Commonwealth of Kentucky and the State Highway Commission of Kentucky or either.

To Committee on Kentucky Statutes No. 1.

Said resolution is as follows, viz.:

WHEREAS, the State Highway Commission of Kentucky during the years of 1934 and 1935 constructed a retain-

ing walls on a public highway on project No. 23 in Lawrence County, Kentucky, and

WHEREAS, the grade and drain of said road was constructed by contract and thereafter there came a slide in said road and the slide proceeded over the lands of Mary Jane Hayes and Tom Hayes and into Big Blaine Creek in Lawrence County, Kentucky, and the State Highway Commission in repairing said slide did not remove any of it nor did not build the retaining wall upon the right-of-way of said highway, and

WHEREAS, the said slip runs over and into the lands of Mary Jane Hayes and Tom Hayes on Big Blaine Creek, near the village of Yatesville, in Lawrence County, Kentucky, and that said road has been maintained prior to and since said slide by the State Highway Commission of Kentucky, through its agents, employees, and not having sufficient right of way they built said retaining walls upon the lands of the said Mary Jane Hayes and Tom Hayes and threw the debris, rocks and other substances into the slide and caused the same to slide down the hill and into Blaine Creek and to stop up the channel of the creek in such a way that it is cutting and destroying the land of the said Mary Jane Hayes and Tom Hayes thereby damaging the value of said land for cultivation and farming purposes, causing a large portion of the said farm to be unfit for cultivation, and

WHEREAS, the said Mary Jane Hayes and Tom Hayes allege and claim that their lands have been greatly injured and damaged by the negligence and the careless construction and maintenance of said road and that said damage and injuries to their lands were caused entirely by the negligence and carelessness of said State Highway Commission of Kentucky, its agents and employees, in not carrying away said slide and permitting the same to fill up the bed of the creek, and in constructing its retaining wall on the lands of Mary Jane Hayes and Tom Hayes.

NOW, THEREFORE, to determine by judicial action the liability of the State Highway Commission of Kentucky and

the Commonwealth of Kentucky for the alleged damage and injury aforesaid,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Mary Jane Hayes and Tom Hayes, of near Yatesville, Lawrence County, Kentucky, be and they are hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission of Kentucky, or either, in the Lawrence Circuit Court for such damages as they may have sustained, if any, by reason of any injury or damage to their lands, caused by the negligence or carelessness of the State Highway Commission of Kentucky, its agents or employees, and in the event a judgment is obtained by the said Mary Jane Hayes and Tom Hayes in said suit for damage to their lands, same shall be paid by the Auditor of Public Accounts by warrant on the Treasurer, and paid out of the general fund: Provided, however, that the said amount of recovery by the said Mary Jane Hayes and Tom Hayes in said suit shall not exceed two thousand eight hundred dollars (\$2,800.00).

Either party to said suit may appeal from any judgment which may be rendered in the Lawrence Circuit Court to the Court of Appeals, and the case may be settled and adjusted with the consent of the Attorney General of Kentucky in the same way as any other civil suit.

By Senator Ervine Turner.

S. Res. 12. Resolution authorizing John R. Clarke, Jr., and Edith S. Clarke to sue the Commonwealth of Kentucky, the State Highway Commission, or either or both of them.

To Committee on Kentucky Statutes No. 1.

Said resolution is as follows, viz.:

WHEREAS, on the 21st of October, 1937 about 8:30



A. M. John R. Clarke, Jr., and his wife Edith S. Clarke of Jackson, Breathitt County, Kentucky, were injured and the car of John R. Clarke, Jr., was practically demolished while John R. Clarke, Jr., was driving his car West on Highway No. 60 at a point about fifteen miles East of Morehead in Carter County, Kentucky.

WHEREAS, at the time of said accident Mr. Carol Ratliff, the right-of-way agent for the State Highway Department, while acting in the scope of his employment and upon the duties of the said Highway Department, negligently and carelessly caused the State Highway Department car to run into and collide with the car of John R. Clarke, Jr., causing John R. Clarke, Jr., and his wife, Edith S. Clarke to be injured, from which injuries they were compelled to have medical attention and suffered great pain for a long period of time.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That John R. Clarke, Jr., and Edith S. Clarke, his wife, be, and they are hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission, or both or either of them in the Circuit Court of Carter County, Kentucky, for such damages as they suffered by reason of personal injuries and property damage caused and brought about by the careless and negligence of the State Highway Commission, its agents or employees.

That said suit shall be for an amount not exceeding the amount of Twenty Five Hundred (\$2500.00) Dollars, and in the event any judgment is recovered by John R. Clarke, Jr., and his wife Edith S. Clarke, in said suit for said personal injuries and property damage, or the same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

Either party to said suit may appeal from any judgment

which may be entered herein as in any other civil suit and the case may be settled, compromised or adjusted with the consent and approval of the Attorney General of Kentucky in the same way and manner as any other civil suit.

By Senator Ervine Turner.

S. Res. 13. Resolution authorizing the personal representative of Jasper Johnson, deceased, to file and prosecute suit against the Commonwealth of Kentucky and the State Highway Commission or either of them.

To Committee on Kentucky Statutes No. 1.

Said resolution is as follows, viz.:

WHEREAS, one Robert Johnson was employed as a laborer by the State Highway Department and became physically incapacitated to perform said work and Jasper Johnson, with the consent and by agreement of the State Highway Foreman in charge of said work, was substituted for said Robert Johnson, and performed and was engaged in performing work and labor for the Commonwealth of Kentucky and the State Highway Commission, and on July 13, 1935, on State Highway Number 52 in Lee County, Kentucky, while in the course of his employment and performance of the duties thereof and while riding in a vehicle being driven by another employee of the Commonwealth of Kentucky and the State Highway Commission a collision with another vehicle occurred in which the said Jasper Johnson was thrown from said vehicle to the pavement of the State Highway and sustained injuries from which he died;

WHEREAS, through mistake and oversight of the State Highway Foreman the name of the said Jasper Johnson was not placed on the payroll and employment roll of the State Highway Department and the name of the said Jasper Johnson was not signed on the Workmen's Compensation Register

and an adjustment and settlement with the estate and personal representative of the said Jasper Johnson can not therefore be made under the provisions of the Workmen's Compensation Law.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That the personal representative of Jasper Johnson, deceased, be and the said personal representative is hereby permitted, empowered and authorized to file and prosecute appropriate action against the Commonwealth of Kentucky and the State Highway Commission, or either, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission, or either, for such injury and death and medical, surgical, ambulance, hospital and burial expenses, if any there be; and in the event any judgment in such action is recovered by the personal representative of the said Jasper Johnson, deceased, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit and the liability, claim and case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky, in the same way and manner as any other civil case.

§ 3. Said action may be brought in the Lee Circuit Court or any county of Kentucky having jurisdiction of the parties and subject matter. The limit of liability shall be One Hundred (\$100.00) Dollars for ambulance, medical, surgical and hospital expenses and Seventy-five (\$75.00) Dollars for burial expenses, and Four Thousand (\$4,000.00) Dollars for the death of the said Jasper Johnson, or a total of Four Thousand One Hundred Seventy-five (\$4,175.00) Dollars.

By Senator Wolfinbarger.

S. Res. 14. Resolution directing the State Auditor to issue warrants on the State Treasurer directing payment to the ex-sheriffs of the State for extra services rendered in the year 1937.

To Committee on Appropriations.

Said resolution is as follows, viz.:

WHEREAS, the Sheriffs of the State are and for some time have been greatly underpaid for their services and,

WHEREAS, a law was enacted at the fourth extra session of the General Assembly of 1936 and 1937 increasing their compensation not to exceed \$1,500.00 per year for such extra service and,

WHEREAS, the Sheriffs whose terms of office expired on January 3, 1938, have not been paid for said service for the year 1937, be it:

RESOLVED by the Senate and the House of Representatives of the Commonwealth of Kentucky and that the Auditor of Public Accounts of the State be directed to determine the sum due each sheriff of the State for said services as provided by Section 3786-4, 1936 Supplement to Carroll's Kentucky Statutes, and draw and deliver to each said sheriff a voucher in said Sheriff's favor directing the State Treasurer to pay said sums due them for the year 1937.

By Senator Blake.

S. Res. 15. Resolution permitting Lina Throckmorton, et al., to sue the Commonwealth of Kentucky and the State Highway Commission (Department of Highways) for damage sustained to residence property in the construction of a highway.

To Committee on Kentucky Statutes No. 1.

Said resolution is as follows, viz.:

Whereas the State Highway Commission (now Department of Highways) in the construction of a highway, beginning in Mt. Olivet, Kentucky, and extending thence to the junction thereof with Highway No. 9, near Claysville, Kentucky, and now a portion of U. S. Highway No. 62, negligently and carelessly so constructed said highway as to permanently injure and damage the premises, residence, wells and cisterns of the said Lina Throckmorton and/or Harold Throckmorton and injure, damage and destroy the residence use and sale value thereof, located in the said town of Mt. Olivet, Robertson County, Kentucky, now, therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Said Lina Throckmorton and Harold Throckmorton, either or both of them be, and they or either of them are hereby authorized, permitted and empowered to sue the Commonwealth of Kentucky and the State Highway Commission, (now Department of Highways) either or both of them, in any sum not in excess of FIVE THOUSAND (\$5000.00) DOLLARS, for loss and damage caused and sustained by reason of the negligent construction of a portion of a highway, (now U. S. No. 62) extending upon, along and in front of the residence property of the said Lina Throckmorton and/or Harold Throckmorton in the town of Mt. Olivet, Robertson County, Kentucky.

§ 2. That the action hereby authorized and permitted may be brought in the Robertson Circuit Court, the situs of the property and shall be commenced within one year from and after the passage hereof.

§ 3. That any party to said action shall have the right of appeal from any judgment rendered by the Robertson Circuit Court, to the Court of Appeals.

Senator Tackett moved that the rules be suspended and



the privilege of the floor be extended to the Honorable Dan Martin, the Honorable Robert Combs, Messrs. F. C. Tate and Slim Marms and the Honorable General Fugate.

Said motion was unanimously agreed to.

Senator T. O. Turner moved that when the Senate adjourn today, it do so in honor of the memory of Mr. John Meloan, former State Superintendent of Printing and member of the House of Representatives of Kentucky, of whose death he had just learned.

Said motion was agreed to.

#### ORDERS OF THE DAY

Senator Gilbert moved that the rules be suspended for the purpose of considering a bill of the following title, viz.:

H. B. 1.

AN ACT appropriating money for the operation, maintenance, support, and functionings of the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government of the Commonwealth of Kentucky, and the purchase of record books, as provided by Section 388 Kentucky Statutes, 1936 Edition, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees and defraying the expenses of any and all other State obligations for the fiscal years ending June 30, 1939, and June 30, 1940, designating the sources and funds from which said appropriations are to be made, describing the manner in which the same are to be paid, providing for the payment into the State Treasury of all fees and other miscellaneous receipts collected by all the different officers, departments, boards, commissions, institutions, and subdivisions of the State Government, which include all the different

agencies, of the State, providing for the establishment of certain revolving funds specifically mentioned, providing for money refund, authorizing and empowering the Governor of the Commonwealth to equitably reduce, or adjust the appropriations made to officers, departments, boards, commissions, institutions, and subdivisions of the State and all other agencies specifically mentioned therein and authorizing the State Budget Officer with the approval of the Commissioner of Finance to make allotments and/or re-allotment from appropriations made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government and other agencies, and authorizing transfers from allowances for one budget class to allowances in another budget class within the same budget unit, when approved by the Commissioner of Finance providing that certain appropriations shall be limited to specific purposes, barring the use of appropriations for certain purposes, and repealing all blanket and continuing appropriations not provided for in this Act, and all appropriations not provided for in this Act, and all appropriations made by any previous act, or acts of the General Assembly of the Commonwealth of Kentucky and repealing all laws or parts of laws in conflict with any of the provisions therein and enacting each section and each subsection as a separate or specific appropriation.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

There is hereby appropriated out of the General Expenditure Fund for the fiscal year beginning July 1, 1938, and ending June 30, 1939, the following sums for the following officers, departments, boards, commissions, institutions, and subdivisions of the State Government, printing of County record books, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees and any other agencies of the State Government of the Common-

wealth of Kentucky, subject to the provisions of the Reorganization Act of the 1936 General Assembly, for which the specific appropriation is herein listed, excepting those listed in parts II and III of this Budget Act, for the following purposes:

### 1. INDEPENDENT AGENCIES

(a) *Legislative Sessions.* For ordinary recurring expenses of operation, \$5,000.00.

(b) *Legislative Council.* For ordinary recurring expenses of operation, \$5,000.00.

(c) *The Council of State Governments.* For aiding in the defraying expenses of this Agency, \$250.00.

(d) *Board of Election Commissioners.* For ordinary recurring expenses of operation, \$500.00.

(e) *Railroad Commission.* For ordinary recurring expenses of operation, \$18,000.00.

### 2. LIEUTENANT GOVERNOR

(a) *Lieutenant Governor.* For ordinary recurring expenses of operation, \$500.00.

### 3. JUDICIARY AND COURT COSTS

(a) *Court of Appeals.* For ordinary recurring expenses of operation, \$34,000.00.

(b) *Clerk of Court of Appeals.* For ordinary recurring expenses of operation, \$16,000.00.

(c) *Judicial Council.* For ordinary recurring expenses of operation, \$800.00.

(d) *Clerks' Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Fund, Commissions on Fines and Forfeitures.* For ordinary recurring expenses of operation of the laws applicable to Clerks' Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, and Commissions on Fines and Forfeitures, \$1,315,300.00.

(e) *Salaries—Judges and Commonwealth's Attorneys.* For ordinary recurring expenses of operation, \$275,000.00.

(f) *Return of Escaped Convicts.* For ordinary recurring expenses of operation in paying for return of escaped convicts authorized by the Governor which have not been previously paid, \$3,000.00.

(g) *Rewards.* For paying of rewards authorized by the Governor of the Commonwealth, \$100.00.

#### 4. EXECUTIVE DEPARTMENT

(a) *Governor.* For ordinary recurring expenses of operation, \$16,000.00.

(b) *Executive Cabinet.* For ordinary recurring expenses of operation, \$4,000.00

(c) *Contingent Fund.* For ordinary recurring contingent and maintenance expenses of operation, \$6,000.00.

(d) *General Emergency Fund.* For meeting ordinary recurring and extraordinary expenses deemed emergencies by the Governor of the Commonwealth and to be expended by the Governor to meet any emergency that may arise, which requires the expenditure of any part of said fund, \$200,000.00.

#### 5. SECRETARY OF STATE

(a) *Secretary of State.* For ordinary recurring expenses of operation, \$19,300.00.

(b) *Land Office.* For ordinary recurring expenses of operation, \$1,200.00.

#### 6. DEPARTMENT OF LAW

(a) *Attorney General.* For ordinary recurring expenses of operation, \$38,000.00.

(b) *Cost of Suits.* For extraordinary expenses of operation and paying Clerks, Sheriffs, Public Officials, and other necessary expenses in discharging the State's obligation in prosecuting in the interest of the State as required by law and subject to approval of the Department of Finance, \$8,000.00.

## 7. DEPARTMENT OF TREASURY

(a) *State Treasurer.* For ordinary recurring expenses of operation, \$31,000.00.

(Of this amount, no sum shall be used for printing checks used for the State Highway Department and Old Age Assistance.)

(b) *Custodian of Securities.* For ordinary recurring expenses of operation, \$600.00.

## 8. AUDITOR OF PUBLIC ACCOUNTS

(a) *Auditor of Public Accounts.* For ordinary recurring expenses of operation, \$50,000.00.

## 9. DEPARTMENT OF FINANCE

(a) *Office of the Commissioner, Division of the Budget, Division of Personnel Efficiency, Division of Accounts and Control, Division of Post-Audit, and Division of Purchases and Public Property.* For ordinary recurring expenses of operation of the various divisions within the Department of Finance and the administration of Confederate Pensions, and administration of Public Printing, \$245,992.00.

(b) For extraordinary expenses and capital outlay, \$5,000.00.

(c) *Public Printing Costs (Contractual Services).* For ordinary recurring expenses of paper and printing costs not a specific charge against other budget units, \$16,000.00.

(d) *Public Record Books (Paper and Printing).* For ordinary recurring expenses necessary in the purchase and replacement of public record books during the fiscal year, \$20,925.00.

(e) *Registration Books and Supplies.* For ordinary recurring expenses in purchasing additional registration books and supplies as required by the State-wide Registration Act of 1936 Regular Session, \$500.00.

(f) *Paper for Printing Election Ballots.* For ordinary



recurring expenses in furnishing paper for ballots for State elections as required by law, \$8,000.00.

(g) *Paper (Revolving Fund)*. To be used for the purchase of paper to be held in stock until charges for paper used by the budget classes are made against the various budget units, \$20,000.00.

(h) *Postage (Revolving Fund)*. To be used for the purchase of postage to be held in stock until charges for postage used by the budget classes are made against the various budget units, \$10,000.00.

(i) *Confederate Pensions*. For ordinary recurring expenses in paying pensions now provided for by law, \$160,000.

(j) *Interest on Warrants*. For ordinary recurring expenses of interest due on outstanding interest-bearing warrants against the Commonwealth, \$275,000.00.

#### 10. DEPARTMENT OF REVENUE

(a) *Commissioner of Revenue*. For ordinary recurring expenses of the various Divisions of the Department of Revenue, \$320,000.00.

(b) *Division of Alcoholic Control*. For the ordinary recurring expenses of operation, \$42,000.00.

#### 11. DEPARTMENT OF REVENUE, MISCELLANEOUS REVENUE AGENCIES

(a) *County Tax Commissioners*. For ordinary recurring expenses of operation, \$307,000.00.

(b) *County Boards of Supervisors*. For ordinary recurring expenses of operation, \$26,500.00.

#### 12. DEPARTMENT OF CONSERVATION

(a) *Director of Conservation*. For ordinary recurring expenses of operation, \$6,500.00.

(b) *Division of State Parks*. For ordinary recurring expenses of operation, \$30,000.00.

(Of this amount \$10,000.00 shall be earmarked to be ex-

pended exclusively in the operation of the Old Kentucky Home Park. Said Home to retain investments now existing for use and benefit of Old Kentucky Home.)

(c) *Division of Forestry.* For ordinary recurring expenses of operation, \$12,000.00.

(d) *Division of Publicity.* For ordinary recurring expenses of operation, \$20,000.00.

### 13. DEPARTMENT OF MILITARY AFFAIRS

(a) *Adjutant General.* For ordinary recurring expenses of operation, \$30,000.00.

(b) *Veterans' Division.* For ordinary recurring expenses of operation, \$18,000.00.

(c) *Division of Armories.* For ordinary recurring expenses of operation, \$30,000.00.

### 14. DEPARTMENT OF AGRICULTURE, LABOR AND STATISTICS

(a) *Division of Agriculture, Labor and Statistics.* For ordinary recurring expenses of operation, \$37,500.00.

(Of this amount each item shall not exceed the amounts specified below.)

(a1) Salaries of Division of Agriculture, \$10,500.00.

(a2) Office and traveling expenses of the Division of Agriculture, \$5,000.00.

(a3) Inspection of Tobacco Warehouses, \$6,000.00.

(It is the intention of the Legislature to discontinue and repeal the appropriation for eradication of the cornborer.)

(a4) Salaries and other recurring expenses of the Division of Labor and Statistics, \$16,000.00.

(b) *State Board of Agriculture.* For ordinary recurring expenses of operation and extraordinary expenses designated by law, \$172,350.00.

(Of this amount each item shall not exceed the amount specified below.)

(b1) Expenses and per diem of Board Members, \$2,250.00.

(b2) Expenses of Live Stock Sanitary Board, \$20,000.00.

(b3) Diseases of Live Stock, \$1,500.00.

(b4) Bang's Disease, \$4,000.00.

(b5) Premiums at Kentucky State Fair from animal licenses, \$15,000.00.

(b6) Operation of Kentucky State Fair, \$75,375.00.

(The Department of Finance shall provide for the establishing of a Revolving Fund sufficient to meet the necessary operating current operating expense of the Fair for the period covering the week of the Fair.)

(b7) For extraordinary expenses and capital outlay, \$4,225.00.

(b8) Premiums for Kentucky State Fair, \$30,000.00.

(b9) Retiring a part of the M & M Building bonded indebtedness maturing November 1, 1938, \$15,000.00.

(The interest on said bonds to be paid from receipts accruing from fees and concessions of said building.)

(b10) Paying Premiums for Boys and Girls Club Work and Bourbon Stock Yard Junior Club, and for the promotion and encouragement of 4-H Club Work, for Kentucky products paid to Kentuckians, \$5,000.00.

## 15. DEPARTMENT OF HEALTH

(a) *Department of Health—General.* For ordinary recurring expenses of operation, \$150,000.00.

(b) *Prevention of Blindness.* For ordinary recurring expenses of operation, \$2,500.00.

(c) *Laboratories.* For ordinary recurring expenses of operation, \$5,000.00.

(d) *County Health Units and Departments.* For ordinary recurring expenses of operation, \$244,500.00.

(e) *Visiting Nurses.* For ordinary recurring expenses of operation, \$6,000.00.

(f) *Hazelwood Sanitorium.* For ordinary recurring expenses of operation, \$44,000.00.

(g) *Interest on Bonds.* For extraordinary expenses of interest on Hazelwood Sanitorium bonds, \$8,400.00.

(h) *Kentucky Crippled Children's Commission.* For ordinary recurring expenses of operation, \$85,000.00.

## 16. DEPARTMENT OF WELFARE

(a) *Commissioner of Welfare.* For ordinary recurring expenses of operation of the charitable and penal institutions and the administration of the Department of Welfare including probation and parole, \$1,700,000.00.

(b) *Home for Incurables.* For ordinary recurring expenses of operation, \$15,000.00.

(c) *Colored Red Cross Hospital.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$4,000.00.

(d) *Kentucky Children's Home Society—White.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$60,000.00.

(e) *Kentucky Children's Home Society—Colored.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$20,000.00.

(f) *Division of Public Assistance.* For ordinary expenses of operation and cooperation with the Federal Government under the Social Security Act approved August 14, 1935, and for the administration of Old Age Assistance, Chapter 94, 1936 Regular Session, and cooperation with Child Welfare and Aid to the Blind programs, \$3,000,000.00.

(g) *New Lands and Buildings.* For extraordinary recurring expenses and capital outlay, \$1,280,437.45.

(Of this amount \$250,000.00 shall be used for the purpose of erecting a general office building; \$200,000.00 may be used for the restoration, repairing, replacements, equipment, and improvements of the charitable and penal institutions under the Department of Welfare. The remainder, \$830,437.45 shall

be used for erection and equipment of buildings for the use of the Department of Welfare for the confinement of convicts and the establishment of hospitals for the insane, feeble-minded, and epileptics of the State.)

(h) *Emergency Relief*. For the extraordinary expenses which constitute special emergencies and/or for relief of indigent persons in the Commonwealth not otherwise provided for by any other agency of the State. Said fund to be administered and expended by the Governor of the Commonwealth, \$150,000.00.

(i) *Conveyance of Lunatics*. For ordinary recurring expenses of operation, \$9,000.00.

(j) *Pauper Idiots*. For ordinary recurring expenses of operation, \$60,000.00.

(k) *Julius Marx Sanitorium*. For ordinary recurring expenses of operation as provided for in Section 2061a-28, Kentucky Statutes, \$9,000.00.

## 17. DEPARTMENT OF EDUCATION

(a) *Superintendent of Public Instruction*. For ordinary recurring expenses of operation, \$60,000.00.

(b) *Division of Certification*. For ordinary recurring expenses of operation, \$15,000.00.

(c) *State Board of Education*. For ordinary recurring expenses of operation, \$15,000.00.

(d) *State Textbook Commission*. For ordinary recurring expenses of operation, \$500.00.

(e) *Common School per Capita Fund*. For the payment of teachers' salaries and other expenses incidental to the operation and maintenance of the public schools of the State, \$9,461,061.84.

(f) For interest on State School Bonds, as provided by the Constitution for the support of Common Schools, which amount shall be used to supplement the appropriation for Common School Per Capita, \$138,938.16.



(g) *Free Textbooks.* For the purchase of textbooks as provided for in Chapter 48, Acts of 1928, \$500,000.00.

(h) *War Orphan and Scholarship Fund.* For the purpose of carrying out the provisions of Sections 4376b-11 and 4527-31, Kentucky Statutes, \$1,400.00.

(i) *Vocational Education.* For ordinary recurring expenses of operation under the provisions of existing laws, \$25,000.00.

(j) *Vocational Rehabilitation.* For ordinary recurring expenses of operation in rehabilitating persons disabled in industry or otherwise, \$21,380.55.

(k) *Kentucky State Industrial College.* For ordinary recurring expenses of operation, \$110,000.00.

(kl) For extraordinary expenses and capital outlay, \$50,000.00.

(This entire amount shall be used for the purpose of erecting a dormitory at the Institution. Expenditure shall be made in accordance with the Reorganization Act governing the expenditure of funds for capital outlay purposes and may be treated as a continuing appropriation.)

(l) *College Tuition for Negroes.* For extraordinary expenses of paying college tuition of Negro students required to go out of the State to obtain higher educational training, \$5,000.00.

(m) *Kentucky School for the Blind—White.* For ordinary recurring expenses of operation, \$61,500.00.

(n) *Kentucky School for the Blind—Colored.* For ordinary recurring expenses of operation, \$7,000.00.

(o) *Kentucky School for the Blind—Workshop for the Adult Blind.* For ordinary recurring expenses of operation, \$14,800.00.

(p) *Kentucky School for the Deaf—White.* For ordinary recurring expenses of operation, \$110,000.00.

(q) *Kentucky School for the Deaf—Colored.* For ordinary recurring expenses of operation, \$8,500.00.

## 18. UNIVERSITY OF KENTUCKY

(a) *Division of Colleges.* For ordinary recurring expenses of operation, \$775,000.00.

(a1) For extraordinary expenses and capital outlay, \$158,000.00.

(Of this amount each item shall not exceed the amounts specified below.)

Repairs to Buildings, \$8,000.00.

Library Equipment, \$30,000.00.

Scientific Laboratory Equipment, \$60,000.00.

Engineering Equipment, \$60,000.00.

(b) *College of Agriculture.* For ordinary recurring expenses of operation, \$24,000.00.

(c) *Summer School Session.* For ordinary recurring expenses of operation, \$8,000.00.

(d) *Experiment Station.* For ordinary recurring expenses of operation, \$48,000.00.

(e) *Service Laboratories.* For ordinary recurring expenses of operation, \$21,000.00.

(f) *Nursery Inspection.* For ordinary recurring expenses of operation, \$2,000.00.

(g) *Princeton Sub-Station.* For ordinary recurring expenses of operation, \$14,000.00.

(h) *Quicksand Sub-Station.* For ordinary recurring expenses of operation, \$14,000.00.

(i) *Agricultural Extension Work.* For ordinary recurring expenses of operation, \$120,000.00.

## 19. STATE TEACHERS' COLLEGES

(a) *Eastern Kentucky State Teachers College.* For ordinary recurring expenses of operation, \$241,000.00.

(a1) For extraordinary expenses and capital outlay, \$79,000.00.

(Of this amount each item shall not exceed the amounts specified below.)

Repairs and improvements of buildings, \$4,000.00.

New Building, \$75,000.00.

(This sum may be combined with a like appropriation for the fiscal year ending June 30, 1940, and for contractual purposes be obligated, but the appropriations for the fiscal year 1939-40 shall not be actually disbursed until after July 1, 1939.)

(b) *Morehead State Teachers College*. For ordinary recurring expenses of operation, \$194,000.00.

(c) *Murray State Teachers College*. For ordinary recurring expenses of operation, \$219,400.00.

(c1) For extraordinary expenses and capital outlay, \$37,500.00.

(This sum may be combined with a like appropriation for the fiscal year ending June 30, 1940, and for contractual purposes be obligated, but the appropriations for the fiscal year 1939-40 shall not be actually disbursed until after July 1, 1939.)

(d) *Western Kentucky State Teachers College*. For ordinary recurring expenses of operation, \$340,000.00.

(d1) For extraordinary expenses and capital outlay, \$40,000.00.

## 20. DEPARTMENT OF LIBRARY AND ARCHIVES

(a) *Law Librarian*. For ordinary recurring expenses of operation, \$8,300.00.

(b) *Law Library—Books*. For ordinary recurring expenses of operation, as provided for under Section 2440, Kentucky Statutes, \$3,500.00.

(c) *Library Sales Account—Kentucky Reports*. For extraordinary recurring expenses of paying the costs of publishing the Kentucky Reports and pamphlets of opinions of the Court of Appeals, as provided for under Section 955a-9, Kentucky Statutes, \$15,800.00.

(d) *Distribution and Repair of Books*. For ordinary recurring expenses of operation, \$500.00.

(e) *Division of Library Extension.* For ordinary recurring expenses of operation, \$10,000.00.

(f) *Kentucky State Historical Society.* For ordinary recurring expenses of operation, \$7,715.00.

## 21. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Division of Athletic Control.* For ordinary recurring expenses of operation, \$6,500.00.

(b) *Division of Banking and Small Loans.* For ordinary recurring expenses of operation, \$45,000.00.

(c) *Division of Insurance.* For ordinary recurring expenses of operation, \$90,000.00.

(d) *Division of Securities.* For ordinary recurring expenses of operation, \$7,500.00.

## 22. DEPARTMENT OF INDUSTRIAL RELATIONS

(a) *Office of the Commissioner.* For ordinary recurring expenses of operation, \$9,000.00.

(b) *Workmen's Compensation Board.* For ordinary recurring expenses of operation, \$60,000.00.

(c) *Kentucky State Employment Service.* For ordinary recurring expenses of operation, \$30,000.00.

## 23. DEPARTMENT OF MINES AND MINERALS

(a) *Division of Coal Mining.* For ordinary recurring expenses of operation, \$25,000.00.

(b) *Division of Geology.* For ordinary recurring expenses of operation, \$12,000.00.

## 24. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

(a) *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of a Court Order or a written opinion from

the Attorney General and approved by the Commissioner of Finance, \$10,000.00.

(b) *Bonds of Elective Officers.* For payment of premiums on bonds of State officials who are required by law to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State, \$2,500.00.

(c) *Judgments.* For the payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General, \$10,000.00.

(d) *Interest on Land Grant Bonds.* For paying the interest semi-annually on A. and M. Bonds as provided by Section 4591a, Kentucky Statutes, \$9,900.00.

(e) *Frankfort Cemetery.* For the purpose of assisting in the care of graves in the Frankfort Cemetery to be paid to persons authorized by law to receive same, \$250.00.

(f) *Statutes and Codes for Courts.* For paying for replacements and purchase of statutes and codes for the Courts as provided in Section 2432, Kentucky Statutes, \$3,000.00.

(g) *Jefferson County Fees.* For paying various officials of Jefferson County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, \$438,000.00.

(h) *Kenton County Fees.* For paying various officials of Kenton County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, \$81,900.00.

## PART II

### 25. DEPARTMENT OF HIGHWAYS

(a) *State Road Fund.* Established for the purpose of paying all cost of operation and maintenance of the State Highway Department and for carrying on its activities for the



fiscal year beginning April 1, 1938, and ending March 31, 1939, there is hereby appropriated to the State Road Fund all the funds now realized out of the State revenues, authorized now by law or that may hereafter be authorized by law, or any additional or other revenues that may be imposed by law for the exclusive benefit of public roads and all funds realized from the Motor Vehicle Registration Tax, the Gasoline Tax, and the Tax on Other Motor Fuels, now collected by law or that may hereafter be imposed or collected by law for the benefit of said department and its activities. Such receipts and revenue shall constitute the State Road Fund.

There is hereby appropriated to the State Highway Department all monies received and placed to the credit of the State Road Fund during the fiscal year ending March 31, 1939, not otherwise appropriated in this Act, for use and benefit of the State Road system in construction, maintenance, and repair of roads.

(b) *Divisions of Records, Equipment, Maintenance and Construction.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, for ordinary recurring administrative expenses of operation the sum of \$600,000.00.

(c) *Division of Rural Highways.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, to be used by the Division of Rural Highways for the improvement, reconstruction, and maintenance of County roads and bridges which have not been accepted by the State Highway Commission for maintenance. Said appropriation to be expended in accordance with Chapter 5, Acts of the General Assembly, 1936, \$2,000,000.00.

(Of this amount, not more than 10 per cent may be used for administrative purposes for the Rural Highway Division in the Highway Department.)

(d) *Office Buildings.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending

March 31, 1939, for the extraordinary expense and capital outlay in erecting a State office building in which the State Department of Highways and its divisions will be housed, \$250,000.00.

(e) *Division of Highway Patrol.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1939, for the ordinary recurring expenses of operation of the Highway Patrol, as provided by law, \$300,000.00.

## 26. DEPARTMENT OF REVENUE

(a) *Administration of Gasoline Tax, Motor Vehicle Registration Tax and Tax on Other Motor Fuels.* There is hereby appropriated out of the State Highway Road Fund to the Department of Revenue for the fiscal year ending June 30, 1939, for ordinary recurring expenses of operating, administering, and enforcing the laws pertaining to the Gasoline Tax, the laws pertaining to the Motor Vehicle Registration Tax, and the laws pertaining to Other Motor Fuels, \$130,000.00.

## 27. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Motor Transportation.* There is hereby appropriated out of the State Highway Fund for the fiscal year ending June 30, 1939, for the use of the Department of Business Regulations, Division of Motor Transportation, for ordinary recurring expenses of operation, \$52,000.00.

## PART III

### REVOLVING, TRUST AND AGENCY FUNDS

There is hereby appropriated to the various professional boards or other boards, commissions, institutions, agencies, or subdivisions of the State Government for the fiscal year ending June 30, 1939, all of the fees (which include fees for board and room, athletics, student activities) and rentals, admittances, sales, licenses collected by law, contributions,

gifts, subventions, and other miscellaneous receipts produced by any of the following professional boards, or other boards, commissions, institutions, agencies, and subdivisions of the State Government, for the use and benefit for each of the below-named professional boards, or other boards, commissions, institutions, agencies and subdivisions of the State Government, the receipts which are received by each of the respective professional boards, or other boards, commissions, institutions, agencies or subdivisions of the State Government; which receipts are placed to the credit of a Revolving Fund (Minor fund) out of which shall be established separate Revolving Fund Accounts for the use and benefit of each separate professional Board or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government. The fund accredited to each shall not exceed at any time the amount of receipts received from the separate professional board or other boards, commission, institution, agency, and/or subdivision of the State Government, credited to the Revolving Fund by each professional Board or other board, commission, institution, agency, and/or subdivision of the State Government. Withdrawal from the said Revolving Fund by each of the said professional boards, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government may be made when and if needed for ordinary recurring expenses of operation, properly approved by the Department of Finance, Division of Accounts and Control, and said requisitions shall not be approved unless there is to the credit of the Revolving Fund of such professional Board, or other board, commission, institution, agency and/or subdivision of the State Government, a free and unencumbered sum equal to the amount of the requisitions. The total amount any agency may requisition from the Revolving Fund Account through the Department of Finance, shall not during the fiscal year ending June 30, 1939, exceed the amount placed to the credit of the Revolving Fund, out of which has been established a Revolving Fund Account for each separate agency

during the fiscal year July 1, 1938, to June 30, 1939, inclusive, plus any balance which said professional board, or other board, commission, institution, agency, and/or subdivision of the State Government may have had transferred from the preceding year, on or before September 30, of the then current fiscal year by the Department of Finance.

#### DEPARTMENT OF TREASURY—

Division of Louisville Securities Office.

#### DEPARTMENT OF FINANCE—

Division of Post-Audit

Duplicating Section.

Truck Licenses—County Portion. There shall be credited to this fund for the purpose of distribution to counties such portion of truck licenses as is now provided by law, at such times as the Department of Finance may order.

#### DEPARTMENT OF REVENUE—

Operators' Licenses. There shall be credited to this fund such receipts as are specifically provided for under Section 2739M-34, Kentucky Statutes.

Back Tax Section. (Delinquent Taxes.) There shall be credited to this Revolving Fund such fees or revenues as provided for by Section 4257a-5.

#### DEPARTMENT OF CONSERVATION—

Division of State Parks.

Division of Forestry (Federal).

Division of Game and Fish Commission.

Division of Publicity.

#### DEPARTMENT OF HEALTH—

Department of Health—General.

Hazelwood Sanatorium.

Kentucky Crippled Children's Commission

## DEPARTMENT OF WELFARE—

Division of Hospitals and Mental Hygiene.  
Division of Corrections.  
Division of Child Welfare.  
Division of Public Assistance.

## DEPARTMENT OF EDUCATION—

Division of General Education Board.  
Jeannes Fund.  
Rosenwald Fund.  
Slater Fund.  
George-Deen Fund.  
Smith-Hughes Fund.  
Vocational Rehabilitation—Federal.  
Vocational Rehabilitation—Private.  
Kentucky State Industrial College.  
State Board of Education—Investment Fund.  
School for Deaf.  
Workshop for the Adult Blind.  
University of Kentucky.  
Eastern Kentucky State Teachers College.  
Morehead State Teachers College.  
Murray State Teachers College.  
Western Kentucky State Teachers College.

## DEPARTMENT OF LIBRARY AND ARCHIVES—

Kentucky Historical Society.  
Library Extension Division.

## DEPARTMENT OF BUSINESS REGULATIONS—

The salary of the secretary and other recurring expenses of operation for the Division of Supervision of Professional Regulation in the Department of Business Regulation shall be fixed by the Department of Finance, and shall be paid by assessments made against the funds of the professional agencies and boards under the Department of Business Regulation.



The assessments shall be determined and fixed by the Department of Finance.

State Board of Accountancy.

State Board of Examiners and Registration of  
Architects.

State Board of Barber and Beautician Examiners

State Board of Chiropractic Examiners.

State Board of Dental Examiners.

State Board of Embalmers.

State Board of Pharmacy.

State Board of Examiners of Trained Nurses

State Board of Veterinary Examiners.

Insurance Examiners Expense.

State Board of Bar Examiners.

#### PUBLIC SERVICE COMMISSION—

Out of fees collected by the Public Service Commission as provided by Chapter 145, Regular Session of the 1934 General Assembly, a sum of \$75,000.00 for the fiscal year ending June 30, 1939, is appropriated for the payment of salaries of the commissioners, employees, council for commissioners, secretary, and other ordinary recurring expenses necessary to enable the Commission to perform all of the functions and duties of said Commission as provided by law.

#### KENTUCKY REAL ESTATE BOARD.

DEPARTMENT OF INDUSTRIAL RELATIONS--

Division of Unemployment Compensation (Federal).

Kentucky State Employment Service.

#### JEFFERSON COUNTY MASTER COMMISSIONERS. NOT OTHERWISE CLASSIFIED—

Truck License Refunds.

There is hereby appropriated out of the General Expenditure Fund for the fiscal year beginning July 1, 1939, and ending June 30, 1940, the following sums for the following officers,

departments, boards, commissions, institutions, and subdivisions of the State Government, printing of county record books, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson and Kenton County Fees, and any and all other agencies of the State Government of the Commonwealth of Kentucky, subject to the provisions of the Reorganization Act of the 1936 General Assembly, for which these specific appropriations are herein listed, excepting those listed in Parts II and III of this Budget Act for the year ending June 30, 1940, for the following purposes:

## PART I

### 1. INDEPENDENT AGENCIES

(a) *Legislative Sessions.* For ordinary recurring expenses of operation, \$150,000.00.

(b) *Legislative Council.* For ordinary recurring expenses of operation, \$5,000.00.

(c) *The Council of State Governments.* For aiding in the defraying expenses of this Agency, \$250.00.

(d) *Board of Election Commissioners.* For ordinary recurring expenses of operation, \$500.00.

(e) *Presidential Electors.* Per Diem and ordinary recurring expenses of operation, \$700.00.

(f) *Railroad Commission.* For ordinary recurring expenses of operation, \$18,000.00.

### 2. LIEUTENANT GOVERNOR

(a) *Lieutenant Governor.* For ordinary recurring expenses of operation, \$1,000.00.

### 3. JUDICIARY AND COURT COSTS

(a) *Court of Appeals.* For ordinary recurring expense of operation, \$34,000.00.

(b) *Clerk of Court of Appeals.* For ordinary recurring expense of operation, \$16,000.00.

(c) *Judicial Council.* For ordinary recurring expense of operation, \$800.00.

(d) *Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, Commissions on Fines and Forfeitures.* For ordinary recurring expense of operation of the laws applicable to Clerk's Services, Criminal Prosecutions, Jury Commissioners, Trustees of Jury Funds, and Commissions on Fines and Forfeitures, \$1,315,300.00.

(e) *Salaries of Judges and Commonwealth Attorneys.* For ordinary recurring expense of operation, \$275,000.00.

(f) *Return of Escaped Convicts.* For ordinary recurring expense of operation for paying for returning escaped convicts authorized by the Governor, which have not been previously paid, \$3,000.00.

(g) *Rewards.* For payment of rewards authorized by the Governor of the Commonwealth, \$100.00.

#### 4. EXECUTIVE DEPARTMENT

(a) *Governor.* For ordinary recurring expense of operation \$16,000.00.

(b) *Executive Cabinet.* For ordinary recurring expense of operation, \$4,000.00.

(c) *Contingent Fund.* For ordinary recurring contingent and maintenance expense of operation, \$6,000.00.

(d) *General Emergency Fund.* For meeting ordinary recurring and extraordinary expenses deemed emergencies by the Governor of the Commonwealth to be expended by the Governor to meet any emergency that may arise, which requires the expenditure of any part of said fund, \$200,000.00.

#### 5. DEPARTMENT OF STATE

(a) *Secretary of State.* For ordinary recurring expense of operation, \$19,300.00.

(b) *Land Office.* For ordinary recurring expense of operation, \$1,200.00.

## 6. DEPARTMENT OF LAW

(a) *Attorney General*. For ordinary recurring expense of operation, \$38,000.00.

(b) *Cost of Suits*. For extraordinary expense of operation, and paying clerks, sheriffs, public officials, and other necessary expenses in discharging the State's obligation in prosecuting in the interest of the State, as required by law, and subject to the approval of the Department of Finance, \$8,000.00.

## 7. DEPARTMENT OF TREASURY

(a) *State Treasurer*. For ordinary recurring expense of operation, \$31,000.00.

Of this amount no sum shall be used for printing checks used by the State Highway Department, and for paying recipients of Old Age Assistance. These costs shall be borne by the respective departments.

(b) *Custodian of Securities*. For ordinary recurring expense of operation, \$600.00.

## 8. AUDITOR OF PUBLIC ACCOUNTS

(a) *Auditor of Public Accounts*. For ordinary recurring expense of operation, \$48,000.00.

Of this amount, each item shall not exceed the amount specified below:

To be expended by the Auditor of Public Accounts from July 1, 1939, to the first Monday in January, 1940, \$25,000.00.

To be expended by the Auditor of Public Accounts from the first Monday in January, 1940, to June 30, 1940, \$23,000.00.

## 9. DEPARTMENT OF FINANCE

(a) *Office of the Commissioner, Division of the Budget, Division of Personal Efficiency, Division of Accounts and Control, Division of Post-Audit, Division of Purchases and Public Property*. For ordinary recurring expenses of opera-

tion of the various divisions within the Department of Finance, and the administration of Confederate Pensions, and Public Printing, \$246,799.00.

(a1) For extraordinary expense and capital outlay, \$5,000.00.

(b) *Public Printing Costs (Contractual Services)*. For ordinary recurring expenses of paper and printing costs, not a specific charge against other budget units, \$16,000.00.

(c) *Public Record Books (Paper and Printing)*. For ordinary recurring expenses necessary in the purchase and replacement of public record books during the fiscal year ending June 30, 1940, \$20,925.00.

(d) *Registration Books and Supplies*. For ordinary recurring expenses in purchasing additional registration books and supplies as required by the State-wide Registration Act of 1936 Regular Session, \$500.00.

(e) *Paper for Printing Election Ballots*. For ordinary recurring expenses in furnishing paper for ballots for State elections as required by law, \$8,000.00.

(f) *Paper (Revolving Fund)*. To be used for the purchase of paper to be held in stock until charges for paper used by the budget classes are made against the various budget units, \$20,000.00.

(g) *Postage (Revolving Fund)*. To be used for the purchase of postage to be held in stock until charges for postage used by the budget classes are made against the various budget units, \$10,000.00.

(h) *Confederate Pensions*. For ordinary recurring expense in paying pensions now provided for by law, \$160,000.

(i) *Interest on Warrants*. For ordinary recurring expense of interest due on outstanding interest-bearing warrants against the Commonwealth, \$190,000.00.



## 10. DEPARTMENT OF REVENUE

(a) *Commissioner of Revenue.* For ordinary recurring expense of various divisions of the Department of Revenue, \$320,000.00.

(b) *Division of Alcoholic Control.* For ordinary recurring expense of operation, \$42,000.00.

## 11. DEPARTMENT OF REVENUE

## MISCELLANEOUS REVENUE AGENCIES

(a) *County Tax Commissioners.* For ordinary recurring expense of operation, \$307,000.00.

(b) *County Boards of Supervisors.* For ordinary recurring expense of operation, \$26,500.00.

## 12. DEPARTMENT OF CONSERVATION

(a) *Director of Conservation.* For ordinary and recurring expense of operation, \$6,500.00.

(b) *Division of State Parks.* For ordinary recurring expense of operation, \$30,000.00.

Of this \$10,000.00 shall be ear-marked to be expended exclusively in the operation of the Old Kentucky Home Park Said Home to retain investments now existing for use and benefit of the Old Kentucky Home.

(c) *Division of Forestry.* For ordinary recurring expenses of operation, \$12,000.00.

(d) *Division of Publicity.* For ordinary recurring expenses of operation, \$20,000.00.

## 13. DEPARTMENT OF MILITARY AFFAIRS

(a) *Adjutant-General.* For ordinary recurring expenses of operation, \$30,000.00.

(b) *Veterans' Division.* For ordinary recurring expenses of operation, \$18,000.00.

(c) *Division of Armories.* For ordinary recurring expenses of operation, \$30,000.00.

#### 14. DEPARTMENT OF AGRICULTURE, LABOR AND STATISTICS

(a) *Division of Agriculture, Labor and Statistics.* For ordinary recurring expenses of operation, \$29,500.00.

(Of this amount each item shall not exceed the amounts specified below.)

(a1) Salaries of Division of Agriculture, \$10,500.00.

(a2) Office and traveling expenses of Division of Agriculture, \$5,000.00.

(a3) Inspection of Tobacco Warehouses, \$6,000.00.

(It is the intentions of the Legislature to discontinue and repeal the appropriation for eradication of the cornborer.)

(a4) Salaries and other recurring expenses of the Division of Labor and Statistics, \$8,000.00.

(This appropriation is made for the period of July 1, 1939, to the first Monday in January, 1940, at which time the duties and functions will by law be transferred to the Department of Industrial Relations.)

(b) *State Board of Agriculture.* For ordinary recurring expenses of operation and extraordinary expenses designated by law, \$172,350.00.

Of this amount each item shall not exceed the amount specified below:

(b1) Expenses and per diem of Board Members, \$2,250.00.

(b2) Expenses of Live Stock Sanitary Board, \$20,000.00.

(b3) Diseases of Live Stock, \$1,500.00.

(b4) Bang's Disease, \$4,000.00.

(b5) Premiums at Kentucky State Fair from animal licenses, \$15,000.00.

(b6) Operation of Kentucky State Fair, \$75,375.00.

(The Department of Finance shall provide for the establishing of a Revolving Fund sufficient to meet the necessary current operating expense of the Fair for the period covering the week of the Fair.)

(b7) For extraordinary expenses and capital outlay, \$4,225.00.

(b8) Premiums for Kentucky State Fair, \$30,000.00.

(b9) Retiring a part of the M. & M. Building Bonded indebtedness maturing November 1, 1939, \$15,000.00.

(The interest on said bonds to be paid from receipts accruing from fees and concessions of said building.)

(b10) Paying Premiums for Boys and Girls Club Work and Bourbon Stock Yard Junior Club, and for the promotion and encouragement of 4-H Club Work, for Kentucky Products paid to Kentuckians, \$5,000.00.

## 15. DEPARTMENT OF HEALTH

(a) *Department of Health—General.* For ordinary recurring expenses of operation, \$150,000.00.

(b) *Prevention of Blindness.* For ordinary recurring expenses of operation, \$2,500.00.

(c) *Laboratories.* For ordinary recurring expenses of operation, \$5,000.00.

(d) *County Health Units and Departments.* For ordinary recurring expenses of operation, \$244,500.00.

(e) *Visiting Nurses.* For ordinary recurring expenses of operation, \$6,000.00.

(f) *Hazelwood Sanatorium.* For ordinary recurring expenses of operation, \$44,000.00.

(g) *Interest on Bonds.* For extraordinary expense of interest on Hazelwood Sanatorium Bonds, \$8,400.00.

(h) *Kentucky Crippled Children's Commission.* For ordinary recurring expenses of operation, \$85,000.00.

## 16. DEPARTMENT OF WELFARE

(a) *Commissioner of Welfare.* For ordinary recurring expenses of operation of the charitable and penal institutions and the administration of the Department of Welfare, including probation and parole, \$1,700,000.00.

(b) *Home for Incurables.* For ordinary recurring expenses of operation, \$15,000.00.

(c) *Colored Red Cross Hospital.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$4,000.00.

(d) *Kentucky Children's Home Society—White.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$60,000.00.

(e) *Kentucky Children's Home Society—Colored.* For ordinary recurring expenses of operation under the supervision of the Department of Welfare, \$20,000.00.

(f) *Division of Public Assistance.* For ordinary recurring expenses of operation, and in cooperation with the Federal Government under the Social Security Act approved August 14, 1935, and for the administration of Old Age Assistance under House Bill No. 427, 1936 Regular Session, and in cooperation with Child Welfare, and Aid to the Blind programs, \$3,000,000.00.

(g) *New Lands and Buildings.* For extraordinary expenses and capital outlay, \$1,369,561.55.

(Of this amount \$200,000.00 may be used for the restoration, repair, replacements, equipment and improvement of the charitable and penal institutions under the Department of Welfare. The remainder to be used for erecting and equipping new Welfare Institutions.)

(h) *Emergency Relief.* For extraordinary expenses which constitute special emergencies and for the relief of indigent persons in the Commonwealth not otherwise provided for by any other agency of the State, said fund to be administered and expended by the Governor of the Commonwealth, \$150,000.00.

(i) *Conveyance of Lunatics.* For ordinary recurring expenses of operation, \$9,000.00.

(j) *Pauper Idiots.* For ordinary recurring expenses of operation, \$60,000.00.

(k) *Julius Marx Sanitorium*. For ordinary recurring expenses of operation as provided for in Section 2061a-28, Ky. Statutes, \$9,000.00.

## 17. DEPARTMENT OF EDUCATION

(a) *Superintendent of Public Instruction*. For ordinary recurring expenses of operation, \$60,000.00.

(b) *Division of Certification*. For recurring expenses of operation, \$15,000.00.

(c) *State Board of Education*. For ordinary recurring expenses of operation, \$15,000.00.

(d) *State Text-Book Commission*. For ordinary recurring expenses of operation, \$2,500.00.

(e) *Common School Per Capita Fund*. For the payment of Teachers' salaries, and other expenses incidental to the operation and maintenance of the public schools of the State, \$9,561,061.84.

(f) *Interest on State School Bonds*. For payment as provided by the Constitution for the support of the Common Schools, which amount shall be used to supplement the appropriation for common school per capita, \$138,938.16.

(g) *Free Text Books*. For purchase of text books as provided in Chapter 49, Acts of 1928, \$500,000.00.

(h) *War Orphan and Scholarship Fund*. For the purpose of carrying out the provision of Sections 4376b-11 and 4527-31, Kentucky Statutes, \$1,400.00.

(i) *Vocational Education*. For ordinary recurring expenses of operation under the provision of existing laws, \$25,000.00.

(j) *Vocational Rehabilitation*. For ordinary recurring expenses of operation in rehabilitating persons disabled in industry, or otherwise, \$21,380.55.

(k) *Kentucky State Industrial College*. For ordinary recurring expense of operation, \$110,000.00.



(kl) For extraordinary expenses and capital outlay, \$50,000.00.

This entire amount shall be used for the purpose of erecting a dormitory at the institution. Expenditure shall be made in accordance with the Reorganization Act governing the expenditure of funds for capital outlay purposes and may be anticipated for contractual purposes.

(l) *College Tuition for Negroes.* For extraordinary expenses of paying college tuition of Negro students required to go out of the State to obtain higher education training, \$5,000.00.

(m) *Kentucky School for the Blind—White.* For ordinary recurring expenses of operation, \$61,500.00.

(n) *Kentucky School for the Blind—Colored.* For ordinary recurring expense of operation, \$7,000.00.

(o) *Kentucky School for the Blind—Workshop.* For ordinary recurring expense of operation, \$14,800.00.

(p) *Kentucky School for the Deaf—White.* For ordinary recurring expense of operation, \$110,000.00.

(q) *Kentucky School for the Deaf—Colored.* For ordinary recurring expense of operation, \$8,500.00.

## 18. UNIVERSITY OF KENTUCKY

(a) *Division of College.* For ordinary recurring expense of operation, \$775,000.00.

(a-1) For extraordinary expense of capital outlay, \$158,000.00.

Of this amount each item shall not exceed the amount specified below:

Repairs for Buildings, \$8,000.00.

Library Equipment, \$30,000.00.

Scientific Laboratory Equipment, \$60,000.00.

Engineering Equipment, \$60,000.00.

(b) *College of Agriculture.* For ordinary recurring expense of operation, \$24,000.00.

(c) *Summer School*. For ordinary recurring expense of operation, \$8,000.00.

(d) *Experiment Station*. For ordinary recurring expense of operation, \$48,000.00.

(e) *Service Laboratory*. For ordinary recurring expense of operation, \$21,000.00.

(f) *Nursery Inspection*. For ordinary recurring expense of operation, \$2,000.00.

(g) *Princeton Sub-Station*. For ordinary recurring expense of operation, \$14,000.00.

(h) *Quicksand Sub-Station*. For ordinary recurring expense of operation, \$14,000.00.

(i) *Agriculture Extension Work*. For ordinary recurring expense of operation, \$120,000.00.

#### 19. STATE TEACHERS COLLEGES

(a) *Eastern Kentucky State Teachers College*. For ordinary recurring expense of operation, \$241,000.00.

(a1) For extraordinary expenses and capital outlay, \$79,000.00.

Of this amount each item shall not exceed the amount specified below:

Repairs and improvement of buildings, \$4,000.00.

Erection of new buildings, \$75,000.00.

(This item may be anticipated for contractual purposes.)

(b) *Morehead State Teachers College*. For ordinary recurring expenses of operation, \$193,000.00.

(c) *Murray State Teachers College*. For ordinary recurring expenses of operation, \$219,400.00.

(c1) For extraordinary expenses and capital outlay, \$37,500.00.

(This amount may be anticipated for contractual purposes.)

(d) *Western Kentucky State Teachers College*. For ordinary recurring expenses of operation, \$340,000.00.

(d1) For extraordinary expense and capital outlay, \$40,000.00.

## 20. DEPARTMENT OF LIBRARY AND ARCHIVES

(a) *Law Librarian*. For ordinary recurring expenses of operation, \$8,300.00.

(b) *Law Library—Books*. For ordinary recurring expenses of operation, as provided for under Section 2440, Kentucky Statutes, \$3,500.00.

(c) *Library Sales Account—Kentucky Reports*. For extraordinary expense of paying the cost of publishing the Kentucky Reports and pamphlets of opinions of the Court of Appeals, as provided for under Section 955a-9, Kentucky Statutes, \$15,800.00.

(d) *Distribution and Repair of Books*. For ordinary recurring expenses of operation, \$500.00.

(e) *Division of Library Extension*. For ordinary recurring expenses of operation, \$10,000.00.

(f) *Kentucky State Historical Society*. For ordinary recurring expenses of operation, \$7,715.00.

## 21. DEPARTMENT OF BUSINESS REGULATION

(a) *Division of Athletic Control*. For ordinary recurring expenses of operation, \$6,500.00.

(b) *Division of Banking and Small Loans*. For ordinary recurring expenses of operation, \$45,000.00.

(c) *Division of Insurance*. For ordinary recurring expenses of operation, \$90,000.00.

(d) *Division of Securities*. For ordinary recurring expenses of operation, \$7,500.00.

## 22. DEPARTMENT OF INDUSTRIAL RELATIONS

(a) *Office of the Commissioner*. For ordinary recurring expenses of operation, \$9,000.00.

(b) *Labor and Statistics*. For ordinary recurring ex-

penses of operation after the first Monday in January, 1940, to June 30, 1940, \$8,000.00.

(c) *Workmen's Compensation Board.* For ordinary recurring expenses of operation, \$60,000.00.

(d) *Kentucky State Employment Service.* For ordinary recurring expenses of operation, \$30,000.00.

## 23. DEPARTMENT OF MINES AND MINERALS

(a) *Division of Coal Mining.* For ordinary recurring expenses of operation, \$25,000.00.

(b) *Division of Geology.* For ordinary recurring expenses of operation, \$12,000.00.

## 24. APPROPRIATIONS NOT OTHERWISE CLASSIFIED

(a) *Money Refunded.* For refunding money paid into the State Treasury, which may be later determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of a Court Order or a written opinion from the Attorney General and approved by the Commissioner of Finance, \$10,000.00.

(b) *Bonds of Elective Officers.* For payment of Premiums on bonds of State officials who are required by Statutes to execute bonds to the Commonwealth of Kentucky, the payment of which is incumbent upon the State, \$2,500.00.

(c) *Judgments.* For the payment of such judgments as may be rendered against the Commonwealth by order of Court and approved by the Attorney General, \$10,000.00.

(a) *Interest on Land Grant Bonds.* For paying the interest semi-annually on A. and M. Bonds as provided by Section 4591a, Kentucky Statutes, \$9,900.00.

(e) *Frankfort Cemetery.* For the purpose of assisting in the care of graves in the Frankfort Cemetery and to be paid to persons authorized by law to receive same, \$250.00.

(f) *Statutes and Codes for Courts.* For paying for re-

placements and purchase of statutes and codes for the Courts as provided in Section 2432, Kentucky Statutes, \$3,000.00.

(g) *Jefferson County Fees.* For paying various officials of Jefferson County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in the form and manner prescribed by law and approved by the Commissioner of Finance, \$438,000.00.

(h) *Kenton County Fees.* For paying various officials of Kenton County the fees provided by law to be paid by the State to such officials when such claims for fees have been presented to the Department of Finance in form and manner prescribed by law and approved by the Commissioner of Finance, \$81,900.00.

## 25. DEPARTMENT OF HIGHWAYS

(a) *State Road Fund.* For the purpose of paying all cost of operation and maintenance of the State Highway Department and for carrying on its activities for the fiscal year beginning April 1, 1939, and ending March 31, 1940, there is hereby appropriated to the State Road Fund all the funds now realized out of the State revenues authorized now by law or that may hereafter be authorized by law, or any additional or other revenues that may be imposed by law for the exclusive benefit of public roads and all funds realized from the Motor Vehicle Registration Tax, the Gasoline Tax, and the Tax on Other Motor Fuels, now collected by law or that may hereafter be imposed or collected by law for the benefit of said department and its activities. Such receipts and revenue shall constitute the State Road Fund.

There is hereby appropriated to the State Highway Department, all monies received and placed to the credit of the State Road Fund during the fiscal year ending March 31, 1940, not otherwise appropriated in this act, for the use and benefit of the State road system in construction, maintenance and repair of roads.



(b) *Divisions of Records, Equipment, Maintenance and Construction.* There is hereby appropriated out of the State Highway Fund for the Fiscal year ending March 31, 1940, for ordinary recurring administrative expense of operation, \$600,000.00.

(c) *Division of Rural Highways.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1940, to be used by the Division of Rural Highways for the improvement, reconstruction, and maintenance of County roads and bridges which have not been accepted by the State Highway Commission for maintenance. Such appropriation to be expended in accordance with Chapter 5, Acts of the General Assembly, 1936, \$2,000,000.00.

(Of this amount, not more than 10 per cent may be used for Administrative purposes for the Rural Highway Division in the Highway Department.)

(d) *Division of Highway Patrol.* There is hereby appropriated out of the State Highway Road Fund for the fiscal year ending March 31, 1940, for ordinary recurring expenses of operation of the Highway Patrol, as provided by law, \$300,000.00.

## 26. DEPARTMENT OF REVENUE

(a) *Administration of Gasoline Tax, Motor Vehicle Registration Tax and Tax on Other Motor Fuels.*—There is hereby appropriated out of the State Highway Road Fund to the Department of Revenue for the fiscal year ending June 30, 1940, for the ordinary recurring expense of operating, administering, and enforcing the laws pertaining to the Gasoline Tax, the laws pertaining to the Motor Vehicle Registration Tax, and the laws pertaining to Other Motor Fuels, \$130,000.00.

## 27. DEPARTMENT OF BUSINESS REGULATIONS

(a) *Motor Transportation.* There is hereby appropriated out of the State Highway Road Fund for the fiscal

year ending June 30, 1940, for the use of the Department of Business Regulation, Division of Motor Transportation, for ordinary recurring expenses of operation, \$52,000.00.

### PART III

#### REVOLVING, TRUST, AND AGENCY FUNDS

There is hereby appropriated to the various professional boards, or other boards, commissions, institutions, agencies, or subdivisions of the State Government for the fiscal year ending June 30, 1940, all of the fees (which include fees from board and room, athletics, student activities) and rentals, admittances, sales, licenses collected by law, contributions, gifts, subventions, and other miscellaneous receipts produced by any of the following professional boards or other boards, commissions, institutions, agencies, and subdivisions of the State Government, for the use of benefit of each of the below-named professional boards or other boards, commissions, institutions, agencies, and subdivisions of the State Government, the receipts which are received by each of the respective professional boards or other boards, commissions, institutions, agencies, or subdivisions of the State Government; which receipts are placed to the credit of the Revolving Fund (Minor Funds) out of which shall be established a Revolving Fund Account for the use and benefit of each separate professional board or other boards, commissions, institutions, agencies and/or subdivisions of the State Government. The fund accredited to each shall not exceed at any time the amount of receipts, from a separate professional board, or other board, commission, institution, agency, and/or subdivision of the State Government, credited to the Revolving Fund by each professional board, or other board, commission, institution, agency, and/or subdivision of the State Government. Withdrawal from the said Revolving Fund by each of the said professional boards, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government

may be made when and if needed for ordinary recurring expenses of operation, properly approved by the Department of Finance, Division of Accounts and Control, and said requisition shall not be approved unless there is to the credit of the Revolving Fund Account of such professional board, or other boards, commissions, institutions, agencies, and/or subdivisions of the State Government, a free and unencumbered sum equal to the amount of the requisitions. The total amount any one professional board or other boards, commission, institution, agency, and/or subdivision of the State Government may requisition from the Revolving Fund Account through the Department of Finance shall not during the fiscal year ending June 30, 1940, exceed the amount placed to the credit of the Revolving Fund, out of which has been established a Revolving Fund Account, during the fiscal year July 1, 1939, to June 30, 1940, inclusive, plus any balance which said professional board, or other boards, commission, institution, agency, and/or subdivision of the State Government may have had transferred from the preceding year, on or before September 30, of the then current fiscal year, by the Department of Finance.

#### DEPARTMENT OF TREASURY—

Division of Louisville Securities Office.

#### DEPARTMENT OF FINANCE—

Division of Post-Audit.

Duplicating Section.

Truck Licenses—County Portion. There shall be credited to this fund for the purpose of distribution to counties such portion of truck licenses as is now provided by law as ordered by the Department of Finance distributed.

#### DEPARTMENT OF REVENUE—

Operators' Licenses. There shall be credited to this fund such receipts as specifically provided for under Section 2739m-34, Kentucky Statutes.

Back Tax Section. (Delinquent Taxes.) There shall be credited to this Revolving Fund such fees or revenues as provided for by Section 4257a-5.

DEPARTMENT OF CONSERVATION—

Division of State Parks.  
Division of Forestry (Federal).  
Division of Game and Fish Commission.  
Division of Publicity.

DEPARTMENT OF HEALTH—

Department of Health—General.  
Hazelwood Sanatorium.  
Kentucky Crippled Children's Commission.

DEPARTMENT OF WELFARE—

Divisions of Hospitals and Mental Hygiene.  
Division of Corrections.  
Division of Child Welfare.  
Division of Public Assistance.

DEPARTMENT OF EDUCATION—

Division of General Education Board.  
Jeannes Fund.  
Rosenwald Fund.  
Slater Fund.  
George-Deen Fund.  
Smith-Hughes Fund.  
Vocational Rehabilitation—Federal.  
Vocational Rehabilitation—Private.  
Kentucky State Industrial College.  
State Board of Education—Investment Fund.  
School for Deaf.  
Workshop for the Adult Blind.  
University of Kentucky.  
Eastern Kentucky State Teachers College.

Morehead State Teachers College.

Murray State Teachers College.

Western Kentucky State Teachers College.

#### DEPARTMENT OF LIBRARY AND ARCHIVES—

Kentucky Historical Society.

Library Extension Division.

#### DEPARTMENT OF BUSINESS REGULATIONS—

The salary of the secretary and other recurring expenses of operation for the Division of Supervision of Professional Regulation in the Department of Business Regulation shall be fixed by the Department of Finance, and shall be paid by assessments made against the funds of the agencies and boards under the Department of Business Regulation. The assessments shall be determined and fixed by the Department of Finance.

State Board of Accountancy.

State Board of Examiners and Registration of Architects.

State Board of Barber and Beautician Examiners.

State Board of Chiropractic Examiners.

State Board of Dental Examiners.

State Board of Embalmers.

State Board of Pharmacy.

State Board of Veterinary Examiners.

State Board of Examiners of Trained Nurses.

State Board of Bar Examiners.

Insurance Examiners Expense.

#### PUBLIC SERVICE COMMISSION—

Out of fees collected by the Public Service Commission as provided by Chapter 145, Regular Session of the 1934 General Assembly, a sum of \$75,000.00 for the fiscal year ending June 30, 1940, is appropriated for the payment of salaries



of the commissioners, employees, council for commissioners, secretary, and other ordinary recurring expenses necessary to enable the commission to perform all of the functions and duties of said Commission as provided by law.

KENTUCKY REAL ESTATE BOARD.  
DEPARTMENT OF INDUSTRIAL RELATIONS—

Division of Unemployment Compensation—Federal.  
Kentucky State Employment Service.

JEFFERSON COUNTY MASTER COMMISSIONERS.  
NOT OTHERWISE CLASSIFIED—

Truck License Refunds.

The following Sections, 28, 29, 30, 31, and 32, are enacted and apply to Parts I, II, and III of the appropriations for the fiscal year ending June 30, 1939, and apply to Parts I, II, and III of the appropriations for the fiscal year ending June 30, 1940.

28.

All receipts, fees, and/or revenue, regardless of whether heretofore specified in this Act, of every department, board, commission, institution, agency, division, or subdivision of the State Government shall be covered into the State Treasury immediately after the close of each month through the Department of Finance and placed to the credit of the General Expenditure Fund, excepting those revenues which are specifically allocated to the State Road Fund or the Revolving Fund which shall be credited to their respective funds as provided for in this Act. The fees, receipts, and/or revenue of every officer, department, division, subdivision, commission, board, institution, or agency of the State Government shall be covered into the State Treasury immediately after the close of each month, and placed to the credit of the General Expenditure Fund and shall be used to defray the expenses of the State Government, and the appropriations made

from the General Expenditure Fund in this Act, unless otherwise specifically appropriated to one of the professional boards, commissions, institutions, agencies, or subdivisions of the State Government for Revolving Fund purposes; such agencies shall be only those that are listed in this Act as having been approved for Revolving Fund Accounts.

29.

The appropriations herein made for the ordinary recurring expenses and extraordinary expense and capital outlay for any officer, department, board, commission, institution, and subdivision of the State Government of the Commonwealth of Kentucky shall not be available for expenditure until allotted as now provided by law, and such appropriations as are specifically made in this Act are hereby declared to be maximum and conditional appropriations except when the Governor determines an emergency exists in any department, board, commission, institution, or subdivision of the State Government requiring an additional allotment of funds to be made from the General Emergency Fund hereby placed at his disposal and made a specific appropriation to be used by him to meet existing emergencies so determined by him. This appropriation is designed under Section 4, "EXECUTIVE DEPARTMENT", as Item (d), Part I, for the fiscal year ending June 30, 1939, and Section 4, Item (d), Part I for the fiscal year ending June 30, 1940, of this Act.

Since the actual needs of each officer, department, board, commission, institution, or subdivision, of the State Government can only be anticipated and not finally determined by the Legislature, and since the total amount of revenue accruing to the General Expenditure Fund from which these appropriations are hereby made can only be anticipated through existing law, and those that may hereafter be enacted, it is the purpose and intention of the Legislature that the State expenditures for each fiscal year covered in this Act shall not exceed the total revenues accruing to the General Expenditure

Fund for the same fiscal year. To carry out this provision, the intention and purpose of the Legislature, upon the determination of the conditions set forth to wit: The needs of each officer, department, board, commission, institution, or subdivision of the State Government, and the total revenue accruing to the General Expenditure Fund, the condition can not be finally determined until after adjournment of this session of the Legislature, the Governor of the Commonwealth of Kentucky is hereby authorized, empowered and directed to ascertain the needs of each officer, department, board, commission, institution, or subdivision of the State Government, and to ascertain the total revenues accruing to the General Expenditure Fund of the Commonwealth, and upon the ascertainment of said facts, he, the Governor is hereby authorized, empowered, and directed by the Legislature to prevent an overdraft or deficit in any fiscal year for which appropriations are herein made, by equitably reducing, without discrimination, the appropriations herein made to any officer, department, board, commission, institution, or subdivision of the State Government; provided that the power hereby invested and granted to the Governor shall not permit any reduction of the appropriation of any officer, department, board, commission, institution or subdivision of the State Government that will actually impair the necessary governmental functions of any agency whose operations and functions are determined to be a necessary governmental function.

## 30.

To carry out the purpose of this Act for the biennium beginning July 1, 1938, and ending June 30, 1940, the State Budget Officer, with the approval of the Commission of Finance, is hereby empowered and granted the authority to make allotments and/or re-allotments from appropriations made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government, so as to prevent an over-draft, or a deficit in any fiscal year

for which appropriations are herein, made, and to prevent the maximum appropriation made to any officer, department, board, commission, institution, or subdivision of the State Government from being exceeded.

## 31.

In enacting this Budget Appropriation Law, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof, as a separate and/or specific appropriation and law, and if any section or any subsection thereof shall be held invalid, or unconstitutional, the decision of the courts shall not effect or impair any of the remaining sections, subsections, or provisions contained herein.

## 32.

All continuing appropriations in existence at the time of this Act are hereby discontinued and repealed by this Act. All laws and parts of laws in conflict with any of the provisions of the above enactments, to the extent of such conflict, are hereby repealed.

Said motion was agreed to by a majority of the members elected.

Senator Sidebottom moved that consideration of said bill be made a special order for Monday afternoon at one o'clock.

Said motion was disagreed to.

Senator Wesley offered the following amendments to said bill, viz.:

Amendment No. 1. Amend House Bill No. 1 in the Senate as follows: On page 16, after line 32, add the following:

(i) For paying the sheriffs of the Commonwealth for services rendered as County Highway Patrol and Investigators, as provided by Chapter 13, Acts of the General Assembly of the Commonwealth of Kentucky, Extraordinary Session 1936 and 1937, \$120,000.00.

Amendment No. 2. Amend House Bill No. 1 in the Senate as follows: On page 35 after line 32 add the following:

(i) For paying the sheriffs of the Commonwealth for services rendered as County Highway Patrol and Investigators, as provided by Chapter 13, Acts of the General Assembly of the Commonwealth of Kentucky, Extraordinary Session 1936 and 1937, \$120,000.00.

Said amendments were each and severally disagreed to.

Senator Gilbert moved the Previous Question.

Whereupon, the President of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the third reading at length of said bill be dispensed with, and that said bill be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Senator Wesley moved that the Senate do now adopt Amendment No. 1 to said bill, as follows, viz.:

Amendment No. 1. (For bill and amendment see S. J. of today, ante.)



Said motion was disagreed to.

Whereupon, said amendment was disagreed to.

Senator Wesley moved that the Senate do now adopt Amendment No. 2 to said bill, as follows, viz.:

Amendment No. 2. (For bill and amendment see S. J. of today, ante.)

Said motion was disagreed to.

Whereupon, said amendment was disagreed to.

Thereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provisions of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	H. Watt Hillman	John A. Sugg, Jr.
Aubrey Barbour	Wm. H. Jones, Jr.	Jos. P. Tackett
Paul M. Basham	Leo King	J. E. Trager
H. Stanley Blake	J. W. McDonald	Ervine Turner
Ollie J. Bowen	Stanley B. Mayer	Thomas O. Turner
Dr. D. H. Bush	Strother Melton	E. T. Wesley
Waller A. Crockett	E. C. Moore	Otis White
Edwin C. Dawson	J. Lee Moore	O. C. Whitfield
W. C. Farmer	Dr. R. C. Moss	B. M. Williams
Lee Gibson	Ray B. Moss	J. E. Wise
Ralph Gilbert	James C. Rogers	J. M. Wolfinbarger
John M. Hall	Ira W. See	
J. Joseph Hettinger	Paul L. Sidebottom	

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Resolved that the title thereof be as aforesaid.

Senator Gilbert moved that the vote by which said bill was passed be reconsidered, and that said motion lie on the table.

Said last named motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill of the following title, viz.:

S. B. 1. (For title see S. J. of January 11th, ante.)

Senator Gilbert moved that said bill be recommitted to the Committee on Appropriations.

Said motion was agreed to.

Senator Jones moved that all available parts of the remarks by Senator Gilbert concerning a bill previously considered by the Senate of the following title, viz.:

H. B. No. 1. (For title see S. J. of today, ante.)

Be spread upon the Journal of the Senate.

Senator Wesley offered an amendment to the motion as made by Senator Jones as follows, viz.: That all available parts of the remarks of Senator Gilbert on said bill be printed and distributed to the members of the Senate for their perusal.

Said amendment was agreed to.

Said motion as amended was then agreed to.

The remarks as made by Senator Gilbert concerning the aforesaid bill as above referred to are as follows, viz.:

*Mr. President and Gentlemen of the Senate:*

I desire to consume some of your time in a rather cursory discussion of the Budget Bill and the finances of the State.

Some seven Senators, democrats and republicans, went over the Budget Bill, item by item, when the Legislative Council had it under consideration. Like every budget bill, the bill did not suit in every detail any Senator. I have had some legislative experience with budget bills, and I have never seen and never hope to see one with its numerous items to which I was in thorough accord. There are some items in this bill that I would eliminate; however, there are some items that I would put in that have been omitted, and there are some items in this bill, if left to me personally, that I would increase. There are some items, if left to me, that I would decrease, and that same thing is true with every Senator in this body.

This bill is an executive budget, prepared by executives, and requiring much thought, a knowledge of the workings of each department, and requiring a study of conditions and figures which no individual member of the Senate could afford to give it—so, we took up the items and went over them, and upon the whole this bill appeared to fit the present financial conditions of the State, the present needs, and the future needs for the next two years as nearly as any bill could be drawn. It is the first legislative budget bill that has ever been submitted in my experience to the Kentucky Legislature by a Governor as required by law. It has been given a greater and more thorough examination than any budget bill that in my experience has been submitted to the Legislature.

As a member of the House some years ago, I had to vote conscientiously against a budget bill which was brought over there the last day and which none of us had an opportunity to examine, and which, we were told, was all right. The members of the House and Senate and the members of the different departments affected by this bill have all had thorough opportunity to examine it. They have examined it, and they have come, one by one, and been asked reasons why their appropriation wasn't satisfactory. Although not meeting their entire satisfaction, each one of them has acknowledged that, to fit the revenue and to fit the conditions, the amounts allocated

are reasonable. If every appropriation that has been asked had been granted, instead of having an appropriation bill of \$24,000,000, we would have had a bill of approximately \$35,000,000, an appropriation which the Commonwealth could not pay.

This Legislature, in passing this Budget Bill, should pass it with the same regard that a good business man would make for his own private business. There might be many things he would want, many things that would be an advantage to have, but things which he cannot afford—so, I am willing to vote for this bill and every item in it, although, as I say, it does not meet my or your opinion on every item. The majority party does not attempt to and does not care to be dictatorial in the passage of legislation; yet, the people have said to it that the responsibility of running this government for the next two years is yours.

I will say that some Republican Senators, who are intensely republican in their political views as I am democratic in my views, have examined this bill with us, went over it with us, and will agree with the majority party that under all circumstance this bill is as near right as any appropriation bill can be anticipated and should pass, but with appreciation for that cooperation on the part of the republican members, I will say as chief spokesman for the majority party on the floor that the democratic party does take gladly the responsibility for this budget bill. We have no apologies, but present it to the State as the best budget bill, the fairest and most business-like budget bill that was ever presented to the Kentucky Legislature.

I feel that it is my duty to, in a brief way—as brief as the subject will permit, call attention to the Senate of the financial situation in which we find ourselves—the best in the history of the State. There have been a few critics of the financial situation in the State who have persisted in claiming that the situation is not as given out. The figures I shall give you today are not my figures, are not democratic figures, are not administra-

tion figures, but are figures on the books themselves. I challenge any member of either House or any critic in the State to contradict a single figure that shall be given here today.

Before getting into a detailed statement, I will say that the State, like a family, would love to spend, and could to advantage spend, considerably more money if we had it and if we could do it without prejudicing other necessary functions of government. There is not a Senator here who would not like to see the Commonwealth of Kentucky in a position to increase its old age pension. What is the history of old age pensions in the other States? I cite this merely to show you with what caution we must proceed. Kentucky has had to drop about 2,500 names from the rolls in order to stay within the current budget, although not more than one-half of the eligibles, it was estimated, were receiving assistance. That means this: they were compelled to take from the pension rolls those whom they could not prove were not indigent but those who were as a matter of fact not dependent upon the State for support. It is history and common sense that the desire and eligibility for old age pensions will grow as a rolling snowball. There are many people whom we know to be abundantly able to provide their every want, but who have no visible means of support and against whom you cannot prove any property, but yet we know they have it—many of those at first decline to accept assistance, but when they see their neighbors receive it, they finally console their conscience. They say—“This fellow is receiving it, and I’ll take it too,” and thus the number grows. Colorado stands impaled on the horns of a dilemma. It passed the highest old age pension in the nation—\$67 a month. It faced a deficit of \$4,000,000 provided January payments are made. In Missouri, where a pension amendment was passed on the promise that it would amount to only \$2,500,000 a year, the St. Louis Post-Dispatch says that in the current two-year period \$35,000,000 will be spent for old age pensions, equivalent to 70 per cent of the State’s general fund expenditure in the previous biennium.



You can take education—there is not a man in the Senate who would not like to see a higher appropriation, although this budget carries the highest appropriation that we have ever had for education. We would like to see it still higher, but sometimes the father who hasn't the money can't send his son to college, which he would like to do and which would be a good thing to do if he had the money to do it with.

This Budget Bill carries \$536,000 to the University of Kentucky and to white and colored colleges greater than the past year or biennium. It increases the State's school fund \$446,000, which is brought on by reason of increase in the number of pupils. It does increase old age assistance one-half million dollars, and from the experience of other states that is a most liberal advance for Kentucky. There are the two items about which I presume most of the Senate would feel that there should be, if possible, an increase.

A great deal has been said in the press about new taxes. I want to discuss that for you as briefly as I can to do it intelligently. This administration has imposed upon the people some new taxes; for instance, personal income taxes, amounting to \$1,784,413.59 for 1936-37. Corporation income taxes amounted to \$1,826,664.74; fiduciary income taxes, \$13,504.88. Excise taxes, other than alcohol—the cigarette tax, \$1,575,770.40; the tax on candy, chewing gum and nuts, and ice cream, and cosmetics brought in \$1,801,714.54. You know that has been repealed. That was both passed and repealed by this present administration. We levied a tax on wine, which brought in \$43,774.88. The tax on the sale of distilled spirits brought in \$2,534,669.76; roadhouse permits, \$3,075.30. There was a total collected on new tax laws of \$9,590,205.46, for that year, but when the omnibus tax bill was repealed, it left the increased taxes under new laws at \$7,788,490.92. That is the increased revenue which was derived by this administration under its own proposal of laws—\$7,000,000 in round numbers.

You must remember that this administration repealed tax

laws as well as enacted tax laws. The total new taxes after the omnibus taxes were repealed left \$7,788,490.92.

You will remember that we repealed the sales tax, which the previous administration collected. That sales tax brought in \$9,044,000, etc., in 1934-35. That amount of old taxes were repealed, while \$7,000,000 of new taxes were being imposed. Under the old sales tax, one-third went to the counties, leaving to the State \$6,029,000. The State under the last administration received the benefit of \$6,029,000 under the sales tax, which was repealed. Taking that from the amount of new taxes imposed, only leaves \$1,758,000 plus. As a matter of fact, as I can show you later, that old law, if administered thoroughly and impartially and as efficiently as tax laws are now being administered, would have brought in more than all of the new taxes imposed. I am justified in making that statement and will give you figures which undoubtedly prove it. The new taxes imposed would not bring in a dollar more than the only taxes repealed if the old taxes had been administered with the same care that the new taxes are.

Now, we get under tax laws, with the old taxes repealed, only \$1,758,000 more revenue than the old administration collected, and the Senate at that time, I think, was unanimous in the repeal of the old sales tax, which goes to show that the new taxes collected are much fairer than the old taxes repealed.

Here is \$1,758,000 of new money coming in. What do we do to offset that money? The old administration did not have any old age pension. During the last year, 1936-37, the State paid out \$617,848.45 on old age pensions, etc. For new lands and buildings, we have spent out of the treasury for those purposes, which, of course, the old or preceding administration did not have to spend, \$723,998.26. That is for new buildings, and any of you who have seen and visited the plants where these new buildings are in process of construction will be glad and proud of this expenditure.

The school per capita has been increased over the amount spent in the previous administration \$802,114.48.

During the year, 1936-37, there was paid on the state debt \$6,313,231.40. The amount that was paid on the state debt last year was over six million dollars. Over \$12,000,000 has been paid on the state debt, regardless of whatever any critic may tell you.

In addition, there was a debt against the Highway Department that is not included in these figures. The Highway Department had outstanding interest bearing warrants of its own, not included in here, of over \$3,000,000; that is, at the beginning of this administration. So there has actually been paid on the state debt during this administration over fifteen and one-half million dollars.

We had to refund on the gross sales tax \$189,356.76. We increased the cash balance, which was there at the beginning of the period, \$1,683,491.43. So, to offset the \$1,758,000 that new taxes actually brought in more than the old taxes repealed we have to show increased expenditures of \$10,330,040.88.

The Laffoon administration paid nothing on the state debt. The figures show that the present administration is collecting some ten million dollars more than the old administration. I have just told you that did not come from increased taxes. Where does it come from? Let's thoroughly understand the situation as shown by the books.

During the fiscal year 1935-36, the general expenditure fund received \$20,060,806.69 applicable to the budget for that year. During the fiscal year 1936-37, which just closed, the general expenditure fund received \$30,143,094.34, which was applicable to the budget, making an increase of \$10,082,287.65, which was applied to the budget. That is where we got the money to pay that ten million dollars of increased expenditure for old age pensions, increased school per capita, new buildings, etc. That is where it came from, and you see the increase in receipts enables us to make those expenditures, although the increase by new taxes is not a fifth of that

amount. Naturally, you want to know how this is. I can give you some interesting facts and figures to show how that is. With \$10,000,000 per year (round numbers) increased receipts we have used more than \$10,000,000 in needed improvements and worthy causes and yet lived within the income and paid in two years \$15,000,000 on the state debt.

George Washington is accorded the honor of being the first citizen of the United States, but he was not as great a statesman as Thomas Jefferson. He had not the financial genius of Alexander Hamilton. But, with his great capacity, he selected the men who did make that administration and him so great. We have in the administration of the affairs of this government some men as competent in the handling of the affairs of this State as ever adorned any government, state or national. The Governor of this Commonwealth, in order to correct this financial situation of the State, got the ablest man in the United States on such matters, to take charge—Dr. Martin; and, we owe to the Governor and to the head of the Financial Department, Mr. Talbott, to the head of the Department of Revenue, Dr. Martin, ably assisted by Mr. Peterson and to those other gentlemen who have cooperated, a great deal of thanks. They have brought us out of the financial mire in which the State was wallowed so many years.

Where did the \$10,000,000 increase come from? It came, in a large part, from correcting inefficient administration of the tax system to an efficient, impartial administration. If I told you that there are in the collections for last year, which made that \$10,000,000 increase, approximately \$6,000,000 collected under old tax laws, you are surprised, and yet, that is the fact. I recall being shocked to such an extent that I spoke over the radio four years ago in denouncing the favoritism in administration of the tax laws of this Commonwealth.

What was considered a great financial genius, a multimillionaire, erected a great structure on the sands, and when it fell, it brought sorrow to the whole Commonwealth of Kentucky. He had erected a great financial institution with hold-



ing companies, extending over Kentucky and Tennessee and extending into other states, in which great financial efforts were attempted and through which many humble citizens hoped to become rich and lost their savings, and the Bank of Kentucky and Banco of Kentucky and all of the "buncoes" fell, but what was the startling feature about it—this man, who was known to be a multimillionaire, made the statement, as published in the press, that *he had not paid a dollar's worth of taxes for years*. That is the newspaper report and statement which I discussed over the radio and which has not to this day been challenged. Revenue agents went into every county of the State and worked over the record books and called in the widows and orphans and told them—"You omitted this note or this piece of property," and they collected taxes with penalties, but this favorite of the government, known as a millionaire, for some reason, never was questioned, and although agents came into my county and found a few omissions of humble people, they were unable to find an omission of millions of dollars from this influential citizen.

The other day an applicant for a contract for one of the roads of the Commonwealth filed his financial statement, as they are required to do before they receive a contract to show that they are competent to build the roads and accept contracts. He did this, showing intangible property of \$100,000 and tangible equipment of over \$65,000, and his attention has been called to the fact that he has never paid any taxes whatsoever on this vast amount of property, from which he has escaped paying taxes thereon during the years past.

When I tell you that from liquor alone under the same laws the increase in revenue was \$1,200,000 under one item. No man has a right to object to increased revenue if it doesn't increase his lawful taxes. It is not fair to the taxpayers of the State to let any other taxpayer go free of his proper part of taxes. So, I will say to the critics of the State administration that here is an item which none have ever taken into consideration and which is the backbone of the improved revenue



conditions—the fact that, while no man's taxes have been substantially increased, everybody has been made to pay their proper taxes. That amounts to approximately \$6,000,000. As shown by the books, approximately \$6,000,000 of the increased revenue receipts during 1936-37 was collected from old tax laws in existence, which was brought about by simply making all alike pay taxes alike.

There is still escaping, for which we have no present remedy, much money especially in the liquor traffic, but the bill that will be presented to you on alcoholic control will stop many of the present gaps and will still materially increase the revenue of the State. I don't think any Senator could object to the fact that increased revenue is being received by collecting the proper tax on the sale and transportation of liquor.

Another thing that will be helpful to you in comparing this Budget Bill with previous budget bills is that it is all-inclusive. The Senator from Pulaski offered, and it was voted down, an amendment which might be covered and which probably will be covered by another appropriation bill. That is a bad practice. It should not be done unless in case of emergency. When you compare this bill with the budget bills of previous administrations, you will run across such practices not in a single instance, but as a habit. A budget bill would be passed and then numerous other bills would be passed carrying appropriations. Previously, the Legislature always exceeded the budget bill by other bills carrying several million dollars. Unless something like the Senator from Pulaski has called our attention to is viewed sufficient by this Senate to cause another bill to carry an appropriation, then this bill carries all state appropriations.

The budget act of 1936, for the biennium of 1936-38, appropriated \$23,270,587.21. That was added to, and the expenditures authorized by the Legislature were greatly in excess, making the final appropriation \$24,140,562.73. This present Budget Bill carries \$24,500,000. This year's budget

bill has expenses in it which are not necessary to continue over a few years such as for new lands and buildings. They will be continued for only a few years. I am attaching a condensed, itemized statement which, with the explanations I have made, make the situation reasonably clear.

During the fiscal year 1935-36, the General Expenditure Fund received \$20,060,806.69 applicable to the Budget for that year.

During the fiscal year 1936-37, which just closed, the General Expenditure Fund received \$30,143,094.34, which was applicable to the Budget, making an increase of \$10,082,287.65, which was applied to the Budget. Of this increase, \$7,788,-490.92 was received from new taxes enacted by the Legislature, session of 1936. At that same session, new taxes were enacted known as the Omnibus, which produced \$1,801,714.54, which made a total received from new taxes of \$9,590,205.45. Taxes included in the Omnibus Bill have been repealed.

The old Sales Tax, which was repealed in January, 1936, produced during the year 1934-35 \$9,044,458.13. One-third of this amount was distributed to the counties, which amounted to \$3,014,819.38, which made a net amount credited to the General Expenditure Fund, applicable to the Budget, of \$6,029,-638.75, or a net increase in revenue due to new taxes, after replacing the loss of the Old Sales Tax, of \$3,560,566.71. Of this increase, new taxes have been repealed (Omnibus Taxes) amounting to \$1,801,714.54, which gives a net increase for the current fiscal year of \$1,758,852.17. Against this increase the administration made the following increase in expenditures during the year 1936-37:

Old Age Pensions, Etc. ....	\$ 617,848.45
New Lands and Buildings.....	723,998.26
State School Per Capita.....	802,114.58
Reduction in the State Indebtedness.....	6,313,231.40
Refunds on Gross Sales Tax, which was	

repealed .....	189,356.76
Increase in the Cash Balance.....	1,683,491.43
	<hr/>
	\$10,230,040.88

The above statement reflects what has been done with the increase in taxes received.

### BUDGET ACT OF 1936

The Budget Act of 1936, for the first year of the biennium of 1936-38 appropriated \$23,270,587.21. There were other appropriations made by the Legislature not included in the Budget Act, which amounted to \$869,975.52, which made an actual budget for the year, \$24,140,562.73.

The present budget bill for the first year of the biennium 1938-40, is \$24,500,000.00, making an actual increase in the appropriation of this budget for the first year over the first year of the Budget Act of 1936, of only \$359,437.27. The present budget has increases as follows:

State School Per Capita .....	\$ 446,280.00
Old Age Assistance .....	500,000.00
New Lands and Buildings .....	530,437.45
Kentucky State Employment Service.....	20,000.00
	<hr/>
Total .....	\$1,496,717.45

Deducting these abnormal increases in budget appropriations, the present budget would be \$23,003,282.55, or \$1,137,280.18 less than the year 1936-37 in ordinary operating expenses.

In addition there is an increase of \$536,000 for the University of Kentucky, white and colored colleges.

The present Budget Bill is all inclusive, accurately reflecting the expenditures, which will be made during the next two years, and if enacted and the present revenue laws are not tampered with, Kentucky will again, during the next biennium

live within its income, pay all current State obligations and completely retire the State interest-bearing warrant indebtedness by November 15, 1939, which indebtedness in November, 1935, according to the most authentic figures obtainable, amounted to approximately \$26,000,000.00.

### LIST OF NEW REVENUE AND RECEIPTS CLASSIFICATIONS

#### Income and Special Corporation Taxes

Personal Income Taxes .....	\$ 1,784,413.59
Corporation Income Taxes .....	1,826,664.74
Fiduciary Income Taxes .....	13,504.88

#### Excise Taxes (Other than Alcohol)

Cigarette Tax .....	1,575,770.40
Tax on Candy, Chewing Gum and Nuts .....	
Tax on Ice Cream .....	
Tax on Cosmetics .....	
repealed	1,801,714.54

#### Alcohol Taxes and Licenses

Tax on sale of Wine .....	43,774.88
Tax on sale of Distilled Spirits .....	2,534,669.76
Road House Permits .....	3,075.30
Total of new tax laws.....	\$ 9,590,205.46
Lost on repeal of new tax laws.....	1,801,714.54
	<hr/>
	\$ 7,788,490.92

#### Total Receipts 1936-37

New Taxes (in force) .....	\$7,788,490.92
New Taxes (repealed) .....	1,801,714.54
	<hr/>
	\$ 9,590,205.46

#### Old Sales Tax Repealed .....

Old Sales Tax Repealed .....	\$9,044,458.13
Less 1/3 to Counties .....	3,014,819.38
	6,029,638.75

	<hr/>	\$ 3,560,566.71
Less New Taxes Repealed .....		1,801,714.54
	<hr/>	
Increase .....		\$ 1,758,852.17

## INCREASED EXPENDITURES

Old Age Pensions, Etc. ....	\$ 617,848.45
New Lands and Buildings .....	723,998.26
School Per Capita .....	802,114.48
Reduced State Debt .....	6,313,231.40
Refunds on Gross Sales Tax.....	189,356.76
Cash Balance Increased .....	1,683,491.43

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\$10,330,040.88

Budget Act (1936) .....\$23,270,587.21

Other appropriations made  
by the Legislature, not  
included in the Budget

Act ..... 869,975.52

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\$24,140,562.73

The present Budget Bill for the first year is..... \$24,500,000.00

Budget increases (in present budget):

School Per Capita ..... 446,280.00

Old Age Assistance ..... 500,000.00

New Lands and Buildings..... 530,437.45

Kentucky State Employ-  
ment Service ..... 20,000.00

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1,496,717.45

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\$23,003,282.55

This is \$1,137,280.18 less than the year before in ordinary operating expenses, not taking into account the increase of \$536,000 to the University and white and colored colleges, which may or may not be necessary to continue in the future.

I want to close by again thanking the Republican members who studied this bill and now approve it. At the same time, while I appreciate their co-operation, yet the majority



party assumes full responsibility for this bill and every item of it, and I hope it will pass.

Senator Jones moved that the rules be suspended for the purpose of introducing a bill.

Said motion was agreed to by a majority of the members elected.

Whereupon, a bill of the following title was introduced, ordered printed and referred, as follows, viz.:

By Senator Jones.

S. B. 40. An Act relating to the appointment, and/or employment, of employees in all branches of State, County, City and/or Town Governments, political divisions thereof, giving unemployed veterans of the Spanish-American War and unemployed veterans of the World War, and/or the unemployed dependent widows and orphans of such veterans, preference to such appointment, or employment, where qualified to perform the work thereof; providing for the registration, classification and certification of such persons; and providing punishment of any official or board for violation of this Act.

To Committee on Veterans Legislation.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That in grateful recognition of the services, sacrifices and suffering, and/or the consequential effect of such service in procuring and holding gainful employment by such veterans in competition with persons whose physical and mental ability has not withstood the shock and depreciating phys-

ical effect coincident with military service in defense of our Nation; it is directed that persons who served in the Army and/or Navy of the United States in the Spanish-American War, and/or the World War, 1914-1919, and hold honorable discharges from such service, and/or the dependent and unemployed widow and orphans of such veterans shall be preferred for appointments and employed to fill positions in every public department or branch, or political division or sub-division of the Commonwealth of Kentucky, or any County, City or Town thereof, if such persons shall be competent to perform such services; and such persons, or person, shall not be disqualified from holding any position in said services on account of age, or by reason of any physical or mental disability, provided such age or disability does not render him, or her, incompetent to perform the duties of the position available; and when such veteran, or dependent as previously indicated, being duly registered, classified and carried on the Active Files of the Kentucky State Employment Service, shall apply for appointment to any such position, place or employment, upon certification of such record by the Kentucky State Employment Service, and if the applicant is a person of good reputation as attested by three or more Town, City or County Officials, the officer, board or person whose duty it is or may be to appoint a person to fill such position, shall appoint or employ such veteran, or dependent, to such position, place or service.

§ 2. Any State office, elective or appointive, or any Board composed of such State officers, County, City, and/or Town Officers, or any person or Board who has been appointed and has charge of the penal and charitable institutions or the State Highway Department of the State; or any other administrative function or service of the State government, who shall willfully disobey or neglect to obey the provisions of this Act shall be deemed to be guilty of a misdemeanor, and upon conviction in a Circuit Court of proper jurisdiction, be subject to a fine of not less than \$100.00 and not more than \$1,000.00;

and for the second offense shall in addition to such fine be liable to a jail sentence of not exceeding six months and forfeit his, or her, or their office or offices.

Senator Gibson moved that the rules be suspended for the purpose of introducing a bill.

Said motion was agreed to by a majority of the members elected.

Whereupon, a bill of the following title was introduced, ordered printed and referred, as follows, viz.:

By Senator Gibson.

S. B. 41. An Act providing for the repeal, amendment and re-enactment of Section 2739g-7, Carroll's Kentucky Statutes, as revised by Baldwin's Edition in 1936, relating to government-owned automobiles and fixing penalties for improper use of same.

To Committee on Appropriations.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 2739g-7, Carroll's Kentucky Statutes, Baldwin's 1936 Revised Edition, be amended by repealing said section and inserting in lieu thereof the following section, so that when said section is amended by substituting and re-enacting the following section in lieu thereof the same shall read as follows:

Section 2739g-7. Government owned automobiles; penalty for improper use.—Applications for registration of automobiles owned exclusively by any county, city, town, board of education, *water district or drainage district* in the state, or by the state or federal governments, shall be accompanied by

a statement from the head of the department of the state, federal government, county, city, town, board of education, *water district or drainage district* owning said automobile, certifying that said automobile is exclusively owned and operated by the county, city, town, board of education, *water district or drainage district*, or by the state or federal government. Said application and statement shall be forwarded by the county court clerk to the commission and special authority may be given to the clerk to register same, and upon receiving said authority the clerk shall issue a registration receipt and deliver a number plate as hereinafter provided, except that no charge shall be made for same by the commission or the clerk. Any person using any plate or license in the operation of any automobile not owned exclusively by a county, city, town, board of education, *water district or drainage district*, state or federal government, shall be guilty of a misdemeanor, and upon conviction thereof fined in any sum not less than ten nor more than one hundred dollars for each offense.

Whereas, a doubt exists as to whether, under existing statutes, automobiles owned exclusively by water and drainage districts are entitled to free registration and, whereas it is the purpose of this Act to remove said doubt and, whereas the financial condition of water and drainage districts in this State is such that free registration of motor vehicles owned exclusively by water and drainage districts will prove beneficial an emergency is declared to exist and this Act shall take effect and be in full force from and after passage and approval.

Senator Gilbert moved that the Senate do now recess until two o'clock, p. m.

Said motion was agreed to.

And so the Senate recessed.

The appointed hour having arrived, the President of the Senate resumed the chair and called the Senate to order.

Senator King moved that the rules be suspended for the purpose of making a report of committee.

Said motion was agreed to by a majority of members elected.

Whereupon, Senator King of the Committee on Regulation of Intoxicating Liquors, to which same had been previously referred, reported a bill of the following title, viz.:

S. B. 6. An Act providing for the regulation of the manufacture of and traffic in alcoholic beverages; requiring licenses therefor and fixing the amounts of license fees; creating Kentucky State Alcoholic Beverage Control Board, with appropriate powers for the enforcement of this Act; fixing the compensation of members of said Board and employees to be appointed by it; authorizing the issuance, revocation and suspension of licenses; imposing prohibitions, restrictions and regulations and fixing penalties for violations of this Act; empowering counties and cities of the first, second and third classes, to have local alcoholic beverage administrators with appropriate powers to adopt and enforce restrictions and regulations of the alcoholic beverage traffic in such city or county, in conformity with this Act; to issue local licenses and fix the fees therefor, to revoke same, and to impose local regulations and penalties, not inconsistent with this Act; transferring the functions and resources of the Division of Alcoholic Control in the Department of Business Regulation to the Department of Revenue; repealing certain sections of Carroll's Kentucky Statutes, 1936 Edition, and all inconsistent laws; and declaring an emergency to exist.

With the expression of opinion that same should pass.



With the following amendments thereto as proposed and adopted by said committee, viz.:

Amendment No. 1. Amend Senate Bill No. 6, page 5, section 2, line 93, by striking, after the word "person" and before the word "included", the word "whether" and inserting in lieu thereof the word "whether".

Amendment No. 2. Amend Senate Bill No. 6, page 18, section 20, line 1, by striking, after the word "for" and before the word "Parts", the word "Frantional" and inserting in lieu thereof the word "Fractional".

Amendment No. 3. Amend Senate Bill No. 6, page 53, Section 74, lines 7 and 8, by striking, after the word "general" and before the word "of", the word "obstruction" and insert in lieu thereof the word "observation".

Amendment No. 4. Amend Senate Bill No. 6, page 64, section 108, line 6, by inserting, after the word "premises" and before the word "provided", the following: "so as to be visible from without such premises".

Amendment No. 5. Amend Senate Bill No. 6, page 64, section 108, line 6, by inserting, after the word "such" and before the word "premises" the word "licensed".

Amendment No. 6. Amend Senate Bill No. 6, page 56, section 83, line 1 by striking the word "Exception" and by changing the "semi-colon" following the word "building" to a "period".

Amendment No. 7. Amend Senate Bill No. 6, page 33, Section 41, line 7, by striking out the word "of" after the comma and before the words "of any rules" and adding in place thereof the word "or".

Whereupon, said bill was read at length for the first time and ordered placed in the Calendar.

Senator Gilbert moved that the Senate do now adjourn.

Said motion was agreed to.

And then the Senate adjourned.

### THURSDAY, JANUARY 13, 1938.

The Senate convened and was called to order by the Honorable Keen Johnson, Lieutenant Governor and President of the Senate.

The Senate was opened with prayer by the Reverend R. B. Kelly, pastor of the Church of the Nazarene, Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	J. Joseph Hettinger	Paul L. Sidebottom
Aubrey Barbour	Wm. H. Jones, Jr.	John A. Sugg, Jr.
Paul M. Basham	Leo King	Jos. P. Tackett
H. Stanley Blake	J. W. McDonald	Ervine Turner
Ollie J. Bowen	Stanley B. Mayer	Thomas O. Turner
Leer Buckley	Strother Melton	E. T. Wesley
Dr. D. H. Bush	E. C. Moore	Otis White
Edwin C. Dawson	J. Lee Moore	O. C. Whitfield
W. C. Farmer	Dr. R. C. Moss	B. M. Williams
Lee Gibson	Ray B. Moss	J. E. Wise
Ralph Gilbert	James C. Rogers	J. M. Wolfenbarger
John M. Hall	Ira W. See	

Senator Dawson moved that the reading of the Journal of the proceedings of Wednesday, January 12, 1938 be dispensed with and the same be approved.

Said motion was agreed to.

Without objection a leave of absence was granted to all absent Senators.

Senator Ervine Turner moved that the rules be suspended and the privilege of the floor be extended to Mr. J. Woodford Howard, Prestonsburg, Kentucky.

Said motion was unanimously agreed to.

Senator Wise moved that the rules be suspended and the privilege of the floor be extended to former Senator Joe Stewart of Munfordsville, Kentucky.

Said motion was unanimously agreed to.

Senator Buckley moved that Master Walter King Robbins be made Honorary Page of the Senate.

Said Motion was agreed to.

Senator Hall moved that the rules be suspended and the privilege of the floor be extended to Mr. James B. O'Rear.

Said motion was unanimously agreed to.

Senator Mayer moved that the rules be suspended and the privilege of the floor be extended to Mr. Horace Taylor and Mr. William C. Taylor of Louisville, Kentucky.

Said motion was unanimously agreed to.

Senator Rogers moved that the rules be suspended and the privilege of the floor be extended to Messrs. Joe Pieper and Ott Pieper.

Said motion was unanimously agreed to.

Senator J. Lee Moore moved that the rules be suspended and the privilege of the floor be extended to Judge G. D. Milliken of Bowling Green, Kentucky.

Said motion was unanimously agreed to.

Senator Gibson moved that the rules be suspended and the privilege of the floor be extended to Dr. Henry W. Bromley, Dr. John Lowe Fort, Dr. H. A. Sprague, Mrs. L. D. Pickett, Dr. W. M. Bostick, the Honorable Henry M. Johnson and the Reverend J. B. Heard.

Said motion was unanimously agreed to.

### INTRODUCTION OF BILLS

Bills of the following titles were introduced, ordered printed, and referred, as follows, viz.:

By Senator Melton:

S. B. 42. An Act relating to the joint control with any surety of money or securities or other assets by any administrator, executor, committee, guardian, trustee or any other fiduciary for whom a bond, undertaking or other obligation is required.

To Committee on Courts and Legal Procedure.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

ONE. That it shall be lawful for any party of whom a bond, undertaking or other obligation is required to agree with his surety or sureties for the deposit of any or all moneys and

assets for which he and his surety or sureties are or may be held responsible, with a bank, savings bank, safe deposit or trust company, authorized by law to do business in Kentucky as such, or with other depository in Kentucky approved by the court or a judge thereof, if such deposit is otherwise proper, for the safekeeping thereof, and in such manner as to prevent the withdrawal of such money or assets or any part thereof, without the written consent of such surety or sureties, or an order of court, or a judge thereof, made on such notice to such surety or sureties as such court or judge may direct; provided, however, that such agreement shall not in any manner release from or change the liability of the principal or sureties as established by the terms of the said bond.

By Senator Attkinson.

S. B. 43. An Act relating to the deposit of securities by domestic life insurance companies with the Treasurer of the Commonwealth, providing for the exchange and surrender of such securities, prescribing the duties of the Treasurer with reference thereto and appropriating funds for the purpose of this Act; repealing all laws and parts of laws in conflict with said Act.

To Committee on Insurance.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. There shall be deposited with the State Treasurer by every domestic life insurance company for the security and benefit of all its policy holders an amount, which, together with such sums as may be deposited by said company with other states and governments by the requirements of the laws thereof, shall be not less than the amount of the par value of



the capital stock of such company actually issued and in the hands of the stockholders thereof not to exceed, however, the sum of Five Hundred Thousand Dollars (\$500,000.00) which shall be the maximum deposit required of any company. The State of Kentucky shall be liable to all domestic life insurance companies for the safe custody and return, according to law, of all deposits required by law to be made by such companies.

§ 2. But no company shall be required to make the deposit herein required until the par value of the capital stock outstanding exceeds the amount deposited by said company under Kentucky Statute 648 and then only to the extent of such excess.

§ 3. Companies shall have the right at any time to change their securities on deposit by substituting for those withdrawn a like amount in other securities of the character which may be deposited according to law and whenever the par value of the outstanding stock of any such company is less than the amount of security then on deposit with the Treasurer or when the deposit by any company shall aggregate more than Five Hundred Thousand Dollars (\$500,000.00), such company shall have the right to withdraw such excess, but at least One Hundred Thousand (\$100,000.00) Dollars in securities at their par and market value shall remain on deposit.

§ 4. Upon the compliance each year with the provisions of this Act by any company the Insurance Commissioner shall issue to it a certificate setting forth the corporate name of the company, its principal office, that it has fully complied with the provisions thereof, stating the amount deposited and such other information regarding the financial standing of the company as the Commissioner may deem necessary or proper and that said company is authorized to transact the business of life insurance, provided that any such certificate shall expire on the 30th day of June in the following year of its issue.

§ 5. The Treasurer and the Insurance Commissioner

shall each keep in their offices a complete record showing the kind of property or securities deposited by each insurance company, the face value thereof, the value as determined by the Insurance Commissioner, the date and where deposited and when withdrawn in the manner prescribed by the Commissioner of Insurance. The Treasurer or his deputy in charge of securities shall keep in his office a complete record showing the name of the company depositing securities, the amount and kind, the date when directed to receive them by the Commissioner of Insurance, the value as determined by the Commissioner, the face value thereof, and the name and address of the person delivering such securities for deposit, and such other information as the Commissioner of Insurance may direct. Also the date when directed by the Commissioner of Insurance to withdraw securities, the company withdrawing same, the amount and kind, and the person to whom delivered and such further information as the Commissioner of Insurance may direct. The Treasurer shall give to the Commonwealth of Kentucky for its benefit and for the use and benefit of any Insurance Company, creditor or policy holder thereof, a surety bond in the penal sum of One Hundred Thousand (\$100,000.00) Dollars conditioned for the faithful performance of the duties of his office and for his official acts in receiving, depositing or delivering securities under the provisions of this Act, and, in the event a deputy of the Treasurer shall be in charge of said securities, he shall give to the Commonwealth of Kentucky for its benefit and for the use and benefit of any insurance company, creditor or policy holder thereof, a surety bond in the penal sum of One Hundred Thousand (\$100,000.00) Dollars, conditioned for the faithful performance of the duties of his office and for his official acts in receiving, depositing or delivering securities under the provisions of this Act.

The form of the above bond shall be approved by the Attorney General of the Commonwealth of Kentucky and the premiums thereof shall be paid as the premiums on the bonds

of other State officials and the salary of said deputy and the other expenses necessary in the carrying out of this Act shall be paid out of the funds appropriated for that purpose.

§ 6. The Treasurer, for his duties under this Act, shall be paid Fifty Dollars (\$50.00) per month, to be paid as other State salaries. The Insurance Commissioner may direct the Treasurer to deliver to any insurance company, the securities, or properties held by him by virtue of this Act, and belonging to such company, on being satisfied by the exhibition of the books and papers of such company or association, and on examination to be made by the Commissioner of Insurance or some competent person to be designated by him, not an officer of any insurance company, and upon the oath of the President or principal officer, and the Secretary or Actuary of the same, or a majority of the trustees or directors, that all debts and liabilities of every kind are paid and extinguished that are due, and may become due upon any contract or agreement made by a Kentucky company with any citizen of this Commonwealth and the said Treasurer may also, from time to time, on direction of the Insurance Commissioner deliver to such company or association, or its assigns, any portion of said securities or properties, on being satisfied in manner and form aforesaid, or by any other competent proof, that all debts and liabilities of every kind that are due, or may become due, upon any such contract or agreement, are less than one-half of the amount of the portion of said securities or properties that shall be retained on deposit; but before he shall deliver up the whole or any portion of said securities, or properties, he shall advertise in some newspaper of general circulation in this Commonwealth, weekly for three months, the intention to do so, unless good cause is shown why they should not be delivered.

This provision, however, shall not affect the surrender and return of securities to their respective owners, which are in excess of the amount of the deposit required by sections one

and three of this Act. Such excess amounts shall be immediately returned as set out in Section three of this Act.

§ 7. In order to carry out the provision of this Act there is hereby appropriated out of the general expenditure fund of the State Treasury for the use and benefit of the State Treasurer, the sum of not to exceed Five Thousand (\$5,000.00) Dollars for the fiscal year ending June 30, 1939, and a like sum for the same purpose for the fiscal year ending June 30, 1940.

§ 8. Sections 648a-1, 648a-2, 648a-4, 648a-6, 762-16, 762-22, 762-23, 4618-10 to 4618-14, inclusive, and all other laws or parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

By Senator Attkisson.

S. B. 44. An Act repealing, amending and re-enacting Section 551, Kentucky Statutes, relating to corporations, their management and control, the election and qualifications of directors of corporations.

To Committee on Kentucky Statutes No. 1.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 551 Kentucky Statutes be repealed and re-enacted so that when so amended and re-enacted it will read as follows:

The affairs of each corporation shall be managed by a board of not less than three directors, each of whom shall own in his right not less than three shares of capital stock; they shall hold office until their successors are respectively elected and qualified, and a majority of them shall constitute a quorum for the transaction of business. All elections for directors shall be by ballot, and shall be held in this state;



and, in the first instance, the directors shall be elected at a meeting held before the corporation is authorized to commence business, and thereafter at an annual meeting of the stockholders to be held on the day named in the by-laws, and which shall not be changed within sixty days next before the day on which the election is to be held, and notice of any change shall be given to each stockholder twenty days before the election is held; and if, for any cause, an election is not held on the day named in the by-laws, a special meeting for that purpose shall be called within thirty days thereafter, of which due notice shall be given to each stockholder, in person or by letter mailed to his last known address. A stockholder may vote at any meeting by proxy, in writing, signed by him, and attested in such manner as the by-laws may prescribe; and a vacancy in the board of directors shall be filled by the board, and the directors so appointed shall hold office until the next annual election, provided that if the directors are divided into classes in the manner set out herein, the directors so appointed shall hold office for the remainder of the term of the directors they are appointed to succeed. The directors of any corporation may, by a vote of the stockholders, be divided into one, two or three classes, the term of office of those of the first class to expire at the annual election next ensuing, of the second class one year thereafter, of the third class two years thereafter; and at each annual election held after such classification, directors shall be chosen for two or three years, as the case may be, to succeed those whose terms expire. But each director of a banking, trust or insurance company, or building and loan association, must own in his own right five shares of capital stock, and a majority of them must be residents of Kentucky during their term of office: Provided, however, That in the case of an insurance company, such company may, by by-law, require that each director own a greater number of shares of stock than five and may, by by-law, require that such qualifying shares be deposited with the treasurer of the company: Provided further, That the



above-mentioned clause, declaring that all elections for directors shall be by ballot, and shall be held in this state, shall not apply to corporations created and organized for educational purposes only, and having no capital stock, and in which tuition to students is free.

By Senator White.

S. B. 45. An Act entitled an Act to repeal and re-enact subsection 1 of Section 606 of the Kentucky Code of Practice.

To Committee on Courts and Legal Procedure.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That subsection 1 of section 606 of the Civil Code of Practice be repealed and the same is re-enacted to read as follows:

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In all actions between husband and wife, of between either or both of them and another, either or both of them may testify as other witnesses, except as to confidential communications between them during marriage, provided, however that neither may be compelled to testify for or against the other.

By Senator Blake.

S. B. 46. An Act creating the Kentucky State Fair Board; providing for its membership, their compensation and expenses, and prescribing its powers and duties; providing for liens on property of exhibitors and concessionaires to secure indebtedness due from them to said Board, and for the enforcement of such liens.

To Committee on Agriculture & State Fair.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. There is hereby created the Kentucky State Fair Board. Said Board shall be a body corporate, and shall have power to sue and be sued, to contract and be contracted with, and possess all the immunities, rights, privileges and franchises usually attaching to corporate bodies. The Kentucky State Fair Board is hereby attached to and made a part of the Department of Agriculture, Labor and Statistics.

§ 2. The Kentucky State Fair Board shall be composed of the members of the State Board of Agriculture.

§ 3. The members of the Kentucky State Fair Board shall be allowed their necessary traveling and hotel expenses, and, with the exception of the Commissioner of Agriculture, Labor and Statistics, who receives an annual salary from the State, shall be allowed \$10.00 per day for attending the meetings of the Board, which shall not exceed twenty-five (25) in number in any one year, and for services rendered in carrying on the State Fair.

§ 4. The Kentucky State Fair Board shall elect from its membership a President and a Vice-President. It shall have authority to employ such employees and agents as it shall deem necessary for the conduct of its affairs and those of the State Fair. The Board shall have authority to fix the duties and the compensation of such employees and agents, the compensation of any such employees and agents in no event to exceed the sum of \$3,600.00 per year. It shall have the authority to require any such employees or agents to give bond for the faithful performance of his duties, and the Board may pay the premium on such bond.

§ 5. In addition to the powers hereinbefore vested in

it, the Kentucky State Fair Board shall have the following powers:

(a) It shall have the custody and control of the State Fair Grounds, including the buildings and equipment thereon, with power to erect and repair buildings on said grounds, and make any and all necessary or proper improvements thereon.

(b) It shall have power and it shall be its duty to hold an annual Fair on said grounds, for the exhibition of agriculture, mechanical, horticulture, dairy, forestry, poultry, live stock, mineral and all other industrial interests of the State.

(c) It shall have the power, and it shall be its duty, to prepare premium lists, and establish rules of exhibition for such Fair.

(d) It shall have the power to take and hold property by deed, gift, devise or bequest, for Fair purposes.

(e) It shall have the power to delegate the management of the State Fair and/or the State Fair Grounds to any employee or agent, or it may delegate such management to an Executive Committee of the Board, and in carrying on such affair, it may employ such assistants as may be deemed necessary.

§ 6. The Kentucky State Fair Board shall require that a complete record of all its meetings be kept. The said Board shall have power to arrange with the County Judge or with such municipal officer as has charge of the municipal police force of any County or City in which such State Fair may from time to time be held, for the proper policing of the State Fair Grounds, and shall have further power to arrange with the State of Kentucky for the policing of such State Fair Grounds by the State Police. In the event the Board is unable to arrange with said City, County or State authority for such police protection, then in that event it may appoint or may delegate to any agent or employee the power to appoint, subject to the approval of the Board, such number of special police as it, or he, may deem necessary for the proper policing of the State Fair Grounds, and such police officers are hereby

vested with the powers and charged with the duties of peace officers. The Board shall also cause to be kept a correct account of its receipts and disbursements.

§ 7. The Kentucky State Fair Board shall not give to any person a free pass, ticket, or box, to or in said State Fair or any House Show held therein.

§ 8. No member of the Kentucky State Fair Board, or any official of any Department, shall be an exhibitor in competition for premium or prize money at any State Fair held while he is a member of the Board, or an official of any Department.

§ 9. The Kentucky State Fair Board shall have exclusive control of concessions, exhibitions, shows, entertainments and attractions at any place within the confines of the grounds of the Kentucky State Fair. It may delegate such control to any of its employees or agents herein provided for, or to an Executive Committee. The Kentucky State Fair Board shall have a prior lien upon the property of any concessionaire, exhibitor or person immediately upon coming or being brought on the grounds to secure existing indebtedness, as well as that which might afterwards arise, with power in any employee or agent of said Board designated by it, to sell the same, the proceeds of sale to be applied to the satisfaction of the indebtedness, said sale to be after giving ten days' notice to the owner or agent of the owner, and in the event this cannot be done, by posting a notice in the office of the Board on the grounds, that the sale of said property is to be had, and the Kentucky State Fair Board, through its designated agent, shall have the right to bid and buy in the property offered for sale for the use and benefit of the Kentucky State Fair.

§ 10. All property of whatsoever nature and description, whether real, personal or mixed, and all claims and demands due to or from the State Board of Agriculture, and pertaining to the Kentucky State Fair, are hereby transferred to and vested in the Kentucky State Fair Board.

§ 11. The sum annually or otherwise appropriated by the



General Assembly of the Commonwealth of Kentucky, to be used for premiums alone, shall be paid on or before the first day of September of each year, to said Kentucky State Fair Board, to be disbursed by said Board through any agent it shall appoint for said purpose, who shall execute bond to the State of Kentucky, to be approved by the Department of Finance in such sum as may be fixed by said Department, for the faithful disbursement of such money; provided, no money shall be paid out of said premium fund except upon checks which have been countersigned by an agent of the Commissioner of Finance, and for that purpose said Commissioner shall designate an agent who shall keep an office upon the Fair Grounds for the duration of each annual Fair for the purpose of carrying out the provisions of this section.

Said Kentucky State Fair Board shall, within ninety days after holding such annual State Fair, render to the Department of Finance of the State, an itemized statement showing the disbursements of such appropriation.

§ 12. Sections 37-14a, 4618b-1, 4618b-2, 4618b-3, 4618b-4, 4618b-5, 4618b-6, 4618b-7, 4618c-1, 4618c-2, 4618d-1, 4618d-2, 4618d-3, 4618d-4, 4618d-5, 4618e-1, 4618e-2, 4618e-3, 4618e-4, 4618e-5, 4618e-6, 4618f-1, 4618f-2, 4618g-1, 4618g-2, 4618h-1, 4618h-2, 4618h-3 and 4618h-4 of Carroll's Kentucky Statutes, 1936 Edition, and all Acts and parts of Acts in conflict herewith are hereby repealed.

§ 13. So much as may be necessary of the appropriation provided in the subsection (b-1) of section 14 of the Appropriation Act for 1938-1939 and provided in subsection (b-1) of section 14 of the Appropriation Act for 1939-1940, in Chapter I of the Acts of the General Assembly of 1938, for paying per diems to members of the Board of Agriculture, may be allotted by the Commissioner of Finance to a fund for the payment of per diems to members of the Kentucky State Fair Board.

§ 14. Inasmuch as the Kentucky State Fair is held annually in the month of September, and it is necessary for the



holding of the Fair in 1938 that the reorganization herein provided for shall be made promptly effective, an emergency is hereby declared to exist, and this Act shall take effect from and after its passage and approval.

The following resolutions were introduced, ordered printed and referred, the titles of same being as follows, viz.:

By Senator Hall.

S. Res. 16. Resolution authorizing Weldon (Tex) Wallace to sue the Commonwealth of Kentucky.

To Committee on Kentucky Statutes No. 1.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the said Weldon (Tex) Wallace be and he is hereby authorized and permitted to sue the Commonwealth of Kentucky in the Scott Circuit Court, for such damage as he may have suffered not to exceed six hundred (\$600.00) dollars, caused by the negligence of the Department of Highways, its agents, servants and employees, and in the event any judgment is recovered by the said Wallace in said suit same shall be paid by the Treasurer of the Commonwealth of Kentucky on warrant from the auditor and both the said Wallace and Commonwealth of Kentucky shall have the right to appeal said case.

By Senator Hall.

S. Res. 17. Resolution authorizing Henry T. McClure to sue the Commonwealth of Kentucky.

To Committee on Kentucky Statutes No. 1.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That the said Henry T. McClure be and he is hereby authorized and permitted to sue the Commonwealth of Kentucky in the Scott Circuit Court, for such damage as he may have suffered, if any, by reason of injury to his head, body and limbs caused by the negligence of the Department of Highways, its agents, servants and employees, and in the event any judgment is recovered by the said McClure in said suit same shall be paid by the Treasurer of the Commonwealth of Kentucky on warrant from the auditor, and both the said McClure and the Commonwealth of Kentucky shall have the right to appeal said case.

Senator Mayer moved that the rules be suspended and the privilege of the floor be extended to Mrs. W. A. Radford, Miss Humphries, Mrs. A. M. Vance, Mrs. John Woodbury and Mrs. Zubrod of Louisville, Kentucky.

Said motion was unanimously agreed to.

Senator Bush moved that the rules be suspended and the privilege of the floor be extended to Mr. Lawrence Price.

Said motion was unanimously agreed to.

## CALENDAR

The Senate took up for consideration from the Calendar a bill of the following title, viz.:

S. B. 6. An Act providing for the regulation of the manufacture of and traffic in alcoholic beverages; requiring licenses therefor and fixing the amounts of license fees; creating Kentucky State Alcoholic Beverage Control Board,

with appropriate powers for the enforcement of this Act; fixing the compensation of members of said Board and employees to be appointed by it; authorizing the issuance, revocation and suspension of licenses; imposing prohibitions, restrictions and regulations and fixing penalties for violations of this Act; empowering counties and cities of the first, second and third classes, to have local alcoholic beverage administrators with appropriate powers to adopt and enforce restrictions and regulations of the alcoholic beverage traffic in such city or county, in conformity with this Act; to issue local licenses and fix the fees therefor, to revoke same, and to impose local regulations and penalties, not inconsistent with this Act; transferring the functions and resources of the Division of Alcoholic Control in the Department of Business Regulation to the Department of Revenue; repealing certain sections of Carroll's Kentucky Statutes, 1936 Edition, and all inconsistent laws; and declaring an emergency to exist.

Senator Sugg moved that the second reading at length of said bill be dispensed with and the same be read for the second time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the second reading at length of said bill being dispensed with, said bill was read for the second time by its title only and ordered placed in the Orders of the Day.

Senator King moved that the Senate do now resolve itself into a Committee of the Whole Senate for the purpose of considering said last named bill.

Said motion was agreed to.

In the absence of Senator Dawson, President Pro Tem of the Senate, the President of the Senate designated Senator E. C. Moore as Chairman of the Committee of the Whole Senate.

Whereupon, the President of the Senate vacated the chair and Senator E. C. Moore took the chair and presided.

After a time, the President of the Senate having resumed the chair, Senator E. C. Moore, Chairman of the Committee of the Whole Senate, which had had under consideration a bill of the following title, viz.:

S. B. 6. (For title see S. J. today, ante.)

Reported progress.

Senator J. Lee Moore raised the point of order that inasmuch as said last named bill was a revenue measure, the same should originate in the House of Representatives.

The President of the Senate ruled that the phases of said last named bill pertaining to the raising of revenue were merely incidental thereto, and that therefore the point of order as raised by Senator Moore was not well taken.

Senator Wise moved that said bill be recommitted to the Committee on the Regulation of Intoxicating Liquors.

Said motion was agreed to.

Senator Tackett moved that the rules be suspended for the purpose of introducing bills.

Said motion was agreed to by a majority of the members elected.

Whereupon, bills of the following titles were introduced, ordered printed and referred as follows, viz.:

By Senator Tackett.

S. B. 47. An Act to amend and re-enact Section 514 of the Civil Code of Practice, relating to the reversal of judgments by the Court of Appeals.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 514 of Carroll's Kentucky Civil Code of Practice, 1932 Edition, be and the same is hereby amended and re-enacted, so that as so amended and re-enacted the same shall be as follows:

Section 514. Court of Appeals may, for errors in record. A judgment may be reversed or modified by the Court of Appeals for errors appearing in the record. If error exists only in respect of one or more of several issues, such as in the assessment of damages, and the trial was otherwise free from substantial error, the Court of Appeals may limit its reversal of the judgment and may confine the new trial to those issues in respect of which the error was made, if the court be of opinion that such restriction is compatible with justice.

To Committee on Courts and Legal Procedure.

By Senator Tackett.

S. B. 48. An Act to amend Section 1 of Chapter 42 of the Acts of the General Assembly of 1934 so as to provide the period of probation of defendants in certain criminal cases.

Said bill is as follows, viz.:



*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 1 of Chapter 42 of the Acts of the General Assembly of 1934 be and the same is hereby amended and re-enacted by adding to the first sentence thereof the following words: "and for the maximum length of time during which the defendant might have been imprisoned under the law; at the end of which time the prosecution shall upon the defendant's motion be dismissed if the defendant shall not have violated any term or condition so imposed,"-so that when said section is amended and re-enacted the same shall read as follows:

" 1. What prisoners may be put upon probation. In prosecutions for crime, in the Circuit Courts of this state, except as hereinafter provided, where the defendant has pleaded or been found guilty, and the defendant has never before been convicted of a felony, either in this state or elsewhere, and it appears to the satisfaction of the court that the character of the defendant and circumstances of the case are such that he is not likely again to engage in an offensive course of conduct, and that the public good does not demand or require that he shall suffer the penalty imposed by law, such court may postpone the rendition of judgment on such terms and conditions as the court deems proper, and for the maximum length of time during which the defendant might have been imprisoned under the law or in misdemeanor prosecutions five years; at the end of which time the prosecution shall upon the defendant's motion be dismissed if the defendant shall not have violated any term or condition so imposed. Whenever in the opinion of the court the sentence should no longer be postponed, the court shall have power to cause a warrant to issue for the defendant and he may thereupon on his arrest be sentenced and such sentence carried into immediate execution."

To Committee on Criminal Law.

By Senator Tackett.

S. B. 49. An Act to repeal and re-enact Section 122 of the Criminal Code of Practice, Baldwin's Revision of 1932, relating to requisites and correction of an indictment.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 122 of the Criminal Code of Practice, Baldwin's Revision of 1932, be and the same is hereby repealed and re-enacted so that as re-enacted the same shall be as follows:

Section 122. *Requisites of an indictment.* The indictment must contain—

1. *Title of prosecution, name of court and parties.* The title of the prosecution, specifying the name of the court in which the indictment is presented and the names of the parties. Whenever an objection is made that an indictment does not contain a caption or title or commencement, a caption may be prefixed to, and a commencement may be inserted in the indictment; and any defect, error or omission in the title, caption or commencement may be amended by the court at any stage of the proceedings and shall be in any event cured by a verdict.

2. *Statement of acts constituting offense.* A statement of the acts constituting the offense, in ordinary and concise language, and in such manner as to enable a person of common understanding to know what is intended; and with such degree of certainty as to enable the court to pronounce judgment, on conviction according to the right of the case.

3. *Charging the offense.*

(a) The indictment may charge, and is valid and sufficient if it charges, the offense for which the defendant is being prosecuted in one or more of the following ways:

(1) By using the name given to the offense by the common law or by a statute.

(2) By stating so much of the definition of the offense either in terms of the common law or of the statute defining the offense or in terms of substantially the same meaning, as is sufficient to give the court and the defendant notice of what offense is intended to be charged.

(b) The indictment may refer to a section or subsection of any statute creating the offense charged therein, and in determining the validity or sufficiency of such indictment regard shall be had to such reference.

To Committee on Judiciary.

By Senator Tackett.

S. B. 50. An Act to repeal and re-enact Section 126 of the Criminal Code of Practice, Baldwin's Revision of 1932, relating to the manner of charging an offense in an indictment.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 126 of the Criminal Code of Practice, Baldwin's Revision of 1932, be repealed and re-enacted, and as re-enacted shall be as follows:

Section 126. *Indictment to charge but one offense; defects, variances and amendment.*

1. An indictment, except in the cases mentioned in Section 127, must charge, but one offense, but if it may have been committed in different modes and by different means the indictment may allege the modes, means or results in the disjunctive or alternative.

2. No indictment for an offense created or defined by statute shall be invalid or insufficient merely for the reason

that it fails to negative any exception, excuse or proviso contained in the statute creating or defining the offense.

3. An indictment need not allege that the offense was committed or the act done "feloniously" or "traitorously" or "unlawfully," or "with force and arms," or "with a strong hand," nor need it use any phrase of like kind otherwise to characterize the offense; nor need it allege that the offense was committed or the act done "burglariously," "willfully," "knowingly," "maliciously," or "negligently," nor need it otherwise characterize the manner of the commission of the offense, unless such characterization is necessary to charge the offense under section 122.

4. No indictment shall be held invalid because the accusatory portion charges a common law offense and the descriptive portion describes a statutory offense, or the converse if the offenses are of the same nature or are commonly known by substantially the same name.

5. The court may at any time cause the indictment to be amended in respect of any defect, imperfection or omission in the matter of form only.

To Committee on Criminal Law.

By Senator Tackett.

S. B. 51. An Act to amend and re-enact Section 237 of Carroll's Criminal Code of Practice, Baldwin's 1932 Edition, relating to separate trials in felony cases.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 237 of Carroll's Criminal Code of Practice, Baldwin's 1932 Edition, be amended and re-enacted so that the same when amended and re-enacted shall read as follows:

“If two or more defendants be jointly indicted for a felony, the court, in its discretion, may grant or refuse any defendant a separate trial.”

To Committee on Courts and Legal Procedure.

By Senator Tackett.

S. B. 52. An Act amending and re-enacting Section 1649b-3 of Carroll's Kentucky Statutes, Baldwin's Revision, relating to the inadmissibility of confessions obtained by sweating.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 1649b-3 of Carroll's Kentucky Statutes, Baldwin's Revision of 1930, be and the same is amended and re-enacted, and as so amended and re-enacted shall read as follows:

Section 1649b-3. Not admissible. No confession obtained by means of sweating, as defined herein, shall be permitted as evidence in any court in this state, but same shall be deemed to have been obtained by duress, if it be shown that such confession was made after the arrest of the party charged with crime and while he was in custody of the law. The trial judge shall determine the competency and admissibility of any alleged confession under the provisions of this statute from evidence heard by him, independent of and without the hearing of the jury trying the case.

To Committee on Criminal Law.

By Senator Ollie J. Bowen.

S. B. 53. An Act to repeal Section 574 of the Code of



Practice in civil cases, Carroll's Civil Code of Practice, Baldwin's 1932 Edition, relating to taking depositions upon interrogatories.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 574 of the Code of Practice in civil cases, being Carroll's Civil Code of Practice, Baldwin's 1932 Edition, be and the same is hereby repealed.

To Committee on Judiciary.

By Senator Ollie J. Bowen.

S. B. 54. An Act to amend Section 127 of the Criminal Code of Practice, Baldwin's Revision of 1932, so that the offenses of forgery and uttering a forged instrument may be charged in one indictment.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 127 of the Criminal Code of Practice, Baldwin's Revision of 1932, be amended by adding thereto as subsection 7 the phrase, "Forgery and uttering a forged instrument," so that as amended said section will read:

Section 127. *Joinder of offenses in indictment.* The offenses named in each of the subdivisions of this section may be charged in one indictment:

1. Larceny and knowingly receiving stolen property.
2. Larceny and obtaining money or property on false pretenses.
3. Larceny and embezzlement.
4. Robbery and burglary.
5. Robbery and assault with intent to rob.

6. Passing or attempting to pass counterfeit money or United States currency or bank notes, knowing them to be such, and having in possession counterfeit money or United States currency or bank notes, knowing them to be such, with the intention of circulating the same.

7. Forgery and uttering a forged instrument.

To Committee on Criminal Law.

By Senator Ollie J. Bowen.

S. B. 55. An Act to amend and re-enact Section 244, Kentucky Criminal Code of Practice, relating to the keeping together and separation of jurors.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 244 of Carroll's Kentucky Criminal Code, Edition of 1932, be amended by adding subsection 2 as follows: "On the trial of crimes which are or may be punished capitally or by life imprisonment the jurors, before the case is submitted to them, may be permitted to separate by agreement of the attorney for the Commonwealth and the attorney for the defendant, with the approval of the trial judge, which shall be in open court and entered of record; provided the consent or approval may be withdrawn before any recess or adjournment of court," so that as amended and re-enacted said Section shall read as follows:

Section 244-1. *Cases in which jury must be kept together.* On the trial of offenses which are or may be punished capitally or by life imprisonment the jurors after they are accepted, if all of the same sex, shall not be permitted to separate, but shall be kept together, in charge of the proper officers. But if the jury consists of both male and female, then the sexes of such jury may be permitted to separate

during the trial and when necessary after final submission of the case, each sex, being kept together in charge of an officer of like sex, as if two separate juries. On the trial of other felonies the jurors, before the case is submitted to them, may be permitted to separate, in the discretion of the court, but after the case is submitted they shall be kept together in charge of officers. On the trial of misdemeanors the jurors may be permitted to separate, or the court may order them to be kept together.

Section 244-2. *Separation by agreement.* On the trial of crimes which are or may be punished capitally or by life imprisonment the jurors, before the case is submitted to them, may be permitted to separate by agreement of the attorney for the Commonwealth and the attorney for the defendant, with the approval of the trial judge, which shall be in open court and entered of record; provided the consent or approval may be withdrawn before any recess or adjournment of court.

To Committee on Courts and Legal Procedure.

### HOUSE MESSAGE

A message was received from the House announcing that they had passed bills and resolutions which originated in that body of the following titles, viz.:

H. B. 54. An Act creating the Thirty-eighth Judicial District of Kentucky, fixing the time of holding courts thereof; changing the Sixth, Seventh and Eighth Judicial Districts, as is necessary by the creation of the 38th Judicial District, and fixing the time of holding the courts thereof; providing for the appointment and election of a Circuit Judge and a Commonwealth's Attorney for the Thirty-eighth Judicial District; providing for present Circuit Judges of the sixth, seventh and eighth Judicial Districts to continue for

the term for which elected; and declaring an emergency to exist.

Whereas there has been a large increase of the population and a large development of the resources of the present Sixth, Seventh and Eighth Judicial Districts of Kentucky, and whereas litigation in Equity in each of said districts has increased to such an extent that it is impossible for the judges in said districts to do the work required of them in the equity branch of the courts and also sit as trial judge in the common law and criminal branches of said courts in the time now allotted by law, or which could be allotted by law, and

Whereas by reason of these facts the equity and trial dockets of some of the counties of said districts are congested, and it is impossible for the judges to keep up with the docket, now, therefore:

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. There is hereby created the Thirty-eighth Judicial District of Kentucky, which shall be composed of the counties of Butler, Edmonson, Muhlenberg and Ohio.

§ 2. The Sixth Judicial District of Kentucky shall be composed of the counties of Daviess, McLean and Hancock.

§ 3. The Seventh Judicial District of Kentucky shall be composed of the counties of Logan, Simpson and Todd.

§ 4. The Eighth Judicial District of Kentucky shall be composed of the counties of Warren and Allen.

§ 5. The present Judge and Commonwealth's Attorney in each of said Sixth, Seventh and Eighth Judicial Districts shall retain the said offices during the term of office for which they were elected, but the present Judge of the Seventh Judicial District, being a resident of the County of Muhlenberg, a county of the Thirty-eighth Judicial District, shall remove into said Seventh District within a reasonable time, and in

the event said Circuit Judge does not remove into said Seventh Judicial District within a reasonable time, the Governor of the Commonwealth of Kentucky shall appoint and commission a Circuit Judge for the Seventh Judicial District, who shall hold his office until his successor is elected and qualified at the next regular November election in said Seventh Judicial District, in which state, county and district officers are elected, in the year 1939.

§ 6. The Governor shall appoint and commission a Circuit Judge for the Thirty-eighth Judicial District created by this Act, who shall hold his office until his successor is elected and qualified at the next regular November election in which state, county and district officers are elected in the year 1939. The Governor shall also appoint and commission a Commonwealth's Attorney in said Thirty-eighth Judicial District, who shall hold his office until his successor is elected and qualified at the next regular November election in which state, county and district officers are elected in the year 1939.

§ 7. The courts in the Sixth Judicial District and in the several counties composing the same shall be held at the following times and places at the time hereinafter set out:

*Daviess County*, at Owensboro; first Monday in January, eighteen juridical days; fourth Monday in February, eighteen juridical days; third Monday in April, twelve juridical days; second Monday in May, eighteen juridical days; third Monday in July, twelve juridical days; third Monday in September, twelve juridical days; third Monday in October, eighteen juridical days.

*Hancock County*, at Hawesville; fourth Monday in January, twelve juridical days; third Monday in June, twelve juridical days; second Monday in November, twelve juridical days.

*McLean County*, at Calhoun; third Monday in March, twelve juridical days; first Monday in July, twelve juridical days; fourth Monday in November, twelve juridical days.

§ 8. The courts in the Seventh Judicial District and in



the several counties composing the same shall be held at the following times and places at the time hereinafter set out:

*Logan County*, at Russellville; first Monday in February, twenty-four juridical days; first Monday in May, twenty-four juridical days; first Monday in September, twenty-four juridical days.

*Simpson County*, at Franklin; first Monday in March, eighteen juridical days; first Monday in June, twenty-four juridical days; second Monday in November, eighteen juridical days.

*Todd County*, at Elkton; fourth Monday in March, eighteen juridical days; first Monday in July, twenty-four juridical days; first Monday in December, eighteen juridical days.

§ 9. The courts in the Eighth Judicial District and in the several counties composing the same shall be held at the following times and places at the time hereinafter set out:

*Warren County*, at Bowling Green; first Monday in January, eighteen juridical days; third Monday in February, thirty-six juridical days; first Monday in April, eighteen juridical days; third Monday in May, thirty-six juridical days; first Monday in September, eighteen juridical days; third Monday in October, thirty-six juridical days.

*Allen County*, at Scottsville; third Monday in January, eighteen juridical days; fourth Monday in April, eighteen juridical days; fourth Monday in September, eighteen juridical days.

§ 10. The courts in the Thirty-eighth Judicial District and in the several counties composing the same shall be held at the following times and places at the time hereinafter set out:

*Muhlenberg County*, at Greenville; first Monday in January, twenty-four juridical days; first Monday in May, twenty-four juridical days; first Monday in October, twenty-four juridical days.

*Butler County*, at Morgantown; first Monday in Febru-

ary, twelve juridical days; first Monday in June, twelve juridical days; first Monday in September, twelve juridical days.

*Ohio County*, at Hartford; first Monday in March, eighteen juridical days; first Monday in July, eighteen juridical days; first Monday in November, eighteen juridical days.

*Edmonson County*, at Brownsville; first Monday in April, twelve juridical days, first Monday in August, twelve juridical days; first Monday in December, twelve juridical days.

§ 11. Whereas the equity and trial dockets in some of the counties of said districts are now congested and have been for many months and business is being retarded by the failure of the courts to decide cases now pending before them and it is necessary in order that the decisions in such litigation may be expedited as quickly as possible that this act become effective immediately, an emergency is hereby declared to exist. This Act shall become effective immediately upon its passage by the General Assembly and the approval by the Governor.

§ 12. The provisions of this Act or the sections thereof are declared to be severable; and if any paragraph, section or part thereof should be by the courts declared unconstitutional, it shall not affect the remainder of said Act.

Ordered that said bill be printed and referred to the Committee on Reapportionment.

H. Res. 1. Resolution appropriating the sum of \$750.00 for a contingent fund for the Clerk of the Senate, and appropriating the sum of \$750.00 for a contingent fund for the Clerk of the House.

Said resolution is as follows, viz.:

Resolution appropriating the sum of \$750.00 for a contingent fund for the Clerk of the Senate, and appropriating the sum of \$750.00 for a contingent fund for the Clerk of the House.

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That for the purpose of paying such expenses as the Chief Clerk of the Senate of Kentucky is directed to incur by the Senate of Kentucky, there is hereby appropriated out of the general revenues of the State, as a contingent fund, the sum of seven hundred and fifty (\$750.00) dollars, and for the purpose of paying the expenses incurred by the Chief Clerk of the House of Representatives under the direction of the House of Representatives of the Commonwealth of Kentucky, there is hereby appropriated out of the general revenues of the State, as a contingent fund, the sum of seven hundred and fifty (\$750.00) dollars. Said respective funds shall be paid out on warrant of the Auditor, issued on requisition of the Chief Clerk of the Senate and of the House of Representatives.

Ordered that said resolution be printed and referred to the Committee on Appropriations.

H. Res. 6. Concurrent Resolution on the life and death of the Honorable Robert Worth Bingham.

Said resolution is as follows, viz.:

WHEREAS, in His infinite wisdom, Almighty God did, on December 19th, in the year of Our Lord, 1937, call to his eternal rest a great son of a great commonwealth; a beloved and faithful public servant; a patriot and a statesman, our own Robert Worth Bingham, once counsellor at law; once jurist; once publisher of a great newspaper and late Ambassador to the Great Court of St. James, and

WHEREAS, because of the excellent and lasting results of efforts for the public good, on the part of the Honorable Robert Worth Bingham, he was during life beloved by all classes and in death is mourned by all classes, and

WHEREAS, We, the representatives of the people of the

Great State of Kentucky, desire, in the name of the people to make record in the archives of the great state he served so well and loved so deeply, of the gratitude a grateful people would express, and the great grief a sorrowful people feel in their loss through his death, NOW, THEREFORE,

*Be it Resolved by the House of Representatives, the Senate concurring therein,* That the Kentucky Legislature through this their official Act extend to the bereaved family the profound sympathy of the people of Kentucky, and make record of the deep appreciation of all classes of the people for a life's work well done in the interest of the state and the nation, and of the great loss which that people feel in his passing, and,

BE IT FURTHER RESOLVED, that this reward being the greatest the representatives of a grateful people are able to give, the Governor of the Commonwealth is requested to affix his signature hereto, and the Lieutenant Governor, and the Speaker of the House of Representatives, and the Secretary of State are likewise are requested to affix their signatures hereto, along with the Great Seal of The Commonwealth of Kentucky, and that the resolution be duly spread upon the House and Senate Journals to remain forever in Kentucky's archives, and

BE IT FURTHER RESOLVED that a copy of this resolution be presented to each member of the bereaved family of the late beloved Robert Worth Bingham, a great and worthy son of a great commonwealth.

Senator Gilbert moved that the rules be suspended for the purpose of consideration of said last named resolution.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Gilbert moved that the Senate do now concur in said resolution.

Said motion was agreed to.

Thereupon, said resolution last named, as proposed and adopted by the House, was concurred in and adopted by the Senate.

Senator Gilbert moved that the Senate do now adjourn to meet again at two o'clock, p. m., Monday, January 17th, 1938.

Said motion was agreed to.

And then the Senate adjourned.

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#### MONDAY, JANUARY 17, 1938

The Senate convened and was called to order by the Honorable Keen Johnson, President of the Senate and Lieutenant Governor of the Commonwealth.

The Senate was opened with prayer by the Reverend John T. Galloway, pastor of the First Presbyterian Church of Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	Ralph Gilbert	James C. Rogers
Aubrey Barbour	John M. Hall	Ira W. See
Paul M. Basham	J. Joseph Hettinger	Paul L. Sidebottom
H. Stanley Blake	Wm. H. Jones, Jr.	J. E. Trager
Ollie J. Bowen	Leo King	Thomas O. Turner
Leer Buckley	J. W. McDonald	E. T. Wesley
Dr. D. H. Bush	Stanley B. Mayer	O. C. Whitfield
Waller A. Crockett	Strother Melton	B. M. Williams
Edwin C. Dawson	E. C. Moore	J. E. Wise
W. C. Farmer	J. Lee Moore	J. M. Wolfenbarger
Lee Gibson	Ray B. Moss	



Senator Dawson moved that the reading of the Journal of the proceedings of Thursday, January 13th, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.

Senator Hillman moved that the rules be suspended and the privilege of the floor be extended to the Reverend Farmer and the Reverend Norman.

Said motion was unanimously agreed to.

Senator Trager moved that the rules be suspended and the privilege of the floor be extended to Dr. Brommel.

Said motion was unanimously agreed to.

Senator E. C. Moore moved that the rules be suspended and the privilege of the floor be extended to Mr. John T. White of Dunnville, Kentucky.

Said motion was unanimously agreed to.

Senator Wise moved that the rules be suspended and the privilege of the floor be extended to Mr. J. M. Campbell of Leitchfield, Kentucky.

Said motion was unanimously agreed to.

Senator White moved that the rules be suspended and the privilege of the floor be extended to Messrs. Clarence James, Lyman Barrett and Windell Ralph.

Said motion was unanimously agreed to.

Senator Dawson moved that the rules be suspended and

the privilege of the floor be extended to Mr. Pilson Smith of Greensburg, Kentucky.

Said motion was unanimously agreed to.

### INTRODUCTION OF BILLS

Bills and resolutions of the following titles were introduced, ordered printed and referred as follows, viz.:

By Senator Gibson.

S. B. 56. An Act to repeal and re-enact Section 2043-12, Carroll's Kentucky Statutes, 1930 Edition, Supplement 1933, the same being Section 12 of Chapter 68 of the Acts of 1930, repealed, amended and re-enacted by Chapter 54 of the Acts of 1936 and entitled, "An Act concerning the manner of commitment of incompetent veterans of the World War who are beneficiaries of World War Veterans' Act as amended; and regulating the appointment, defining the duties and governing the actions of guardians and committees for beneficiaries of the World War Veterans' Act, as amended, and the World War Adjusted Compensation Act, as amended," and declaring an emergency to exist.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section two thousand forty-three-twelve (2043-12), Carroll's Kentucky Statutes, one thousand nine hundred thirty (1930) Edition, Supplement one thousand nine hundred thirty-three (1933), being Chapter twelve (12) of Chapter sixty-eight (68) of the Acts of the General Assembly, one thousand nine hundred thirty (1930), and being Chapter fifty-four (54) of the Acts of the General Assembly, one thousand nine hundred thirty-six (1936), relating to the manner of commitment of incompetent veterans of the World War

who are beneficiaries of the World War Veterans' Act as amended; and regulating the appointment, defining the duties and governing the actions of guardians and committees for beneficiaries of the World War Veterans' Act, as amended, and the World War Adjusted Compensation Act, as amended, be and the same is hereby repealed, amended and re-enacted, so that such section when thus repealed, amended, and re-enacted shall read as follows:

Section Twelve (12). Every guardian or committee, who has or is receiving funds from the Veterans' Administration, shall, before investing such funds of the estate, obtain the prior order of the court and with such prior order shall invest the funds of the estate in such manner and in such securities or annuities, in which the guardian or committee has no interest, as allowed by law; *except that where said guardian or committee invests such funds in bonds or other interest bearing obligations of the United States Government or securities authorized by Acts of Congress no prior order of the court is needed or is necessary.*

All laws or parts of laws in conflict herewith are hereby repealed.

Whereas, any delay in the privilege of so investing the funds of a veteran may result in the loss of an income to such veteran, an emergency is hereby declared to exist, and this Act shall take effect upon its passage and approval by the Governor.

To Committee on Veterans' Legislation.

By Senator Gibson.

S. B. 57. An Act to authorize fiduciaries to invest trust funds in real estate; to authorize a trust company or a bank, empowered to act as a fiduciary under the laws of the State of Kentucky, to establish a common trust fund under a written plan to be approved by the Kentucky State banking au-

thority; to authorize the amendment or modification of any such plan with the approval of the Kentucky State banking authority; and to authorize such trust company or bank to invest trust funds in its hands in shares or participation certificates issued against such common trust fund.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

In addition to investments now lawful for trust funds;

(a) It shall be lawful for persons or corporations holding trust funds in a fiduciary capacity for loan or investment, to invest the same in real estate.

(b) It shall be lawful for a trust company, or a bank (hereinafter also called a "trust company") empowered to act as a fiduciary under the laws of the State of Kentucky and subject to examination by either the Kentucky State or Federal banking authorities, (1) to set apart in a separate common trust fund certain definite securities and properties, which in each instance would conform to the Kentucky requirements as to trust investments; (2) to issue against such common trust fund shares, or participation certificates; in such common trust fund; and (3) to invest trust funds in its hands for investment in such shares or participation certificates; provided, however, that such trust company shall at all times maintain definite records, fully and accurately setting forth, (1) all securities and properties held in such common trust fund; and (2) all shares or participation certificates issued against such fund. Provided further, that before establishing a common trust fund as herein provided, the trust company proposing to establish same shall, (1) file with the Kentucky State banking authority a writing setting forth the plan under which it proposes to establish, maintain, operate, and ultimately liquidate such common trust fund; and (2) secure in writing

the approval of such plan by the Kentucky State banking authority. Provided further, that a trust company, after having established a common trust fund and secured the approval of the plan thereof as herein provided, may thereafter change, modify, or amend such plan by, (1) filing with the Kentucky State banking authority a writing setting forth the proposed change, modification, or amendment; and (2) securing in writing the approval of such change, modification, or amendment by the Kentucky State banking authority.

To Committee on Banks & Trust Companies.

By Senator Gibson.

S. B. 58. An Act to permit the transfer of assets of a bank to another bank, in case of emergency, by the board of directors with the consent of the Director of the Division of Banking, providing for the publication of notice of such transfer; providing for the payment of fair cash value to aggrieved shareholder, and the time and manner of objection of such aggrieved shareholder; and providing for the repeal of all laws and parts of laws in conflict with this Act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of\* the Commonwealth of Kentucky:*

§ 1. Whenever in the opinion of the Director of the Division of Banking and a majority of the members of the respective boards of directors of the banks concerned therein, an emergency exists warranting an immediate transfer of such assets and liabilities, the board of directors of any bank, by a majority vote, may transfer the assets and liabilities of such bank to another bank or banks, without the vote or approval of the stockholders of each such bank, party to such



proposed transfer. No such transfer shall be made without the consent of the Director of the Division of Banking and each bank, party to such transfer, shall file, or cause to be filed with the Director of the Division of Banking, certified copies of all proceedings had by its board of directors, which proceedings shall contain a complete copy of the agreement made and entered into by and between such banks. Notice of a transfer of assets and liabilities made pursuant to the provisions of this Act shall be given by publication in a newspaper of general circulation, in the county where the principal office of each bank, party thereto, is located. Such notice shall be published once each week for four consecutive weeks immediately following such transfer and certified copy thereof shall be filed in the office of the Director of the Division of Banking.

§ 2. Any shareholder of the transferror bank who shall deem himself aggrieved by reason of such transfer, shall be paid the fair cash value of his shares as of the day before the day on which the vote of the board of directors was taken authorizing such transfer, excluding from such fair cash value any appreciation or depreciation in consequence of the transfer which entitled him to such relief, if such shareholder within twenty days after the day on which such vote was taken shall object in writing to such transfer and shall demand in writing the payment of such fair cash value of his shares. Such payment shall be made within thirty days after such fair cash value is agreed upon or determined. Any shareholder who does not object and demand in writing the payment of fair cash value of his shares in the manner and at the time hereinbefore provided shall be found by the vote of a majority of the directors of such bank.

§ 3. All laws and parts of laws in conflict with this Act are hereby repealed to the extent of such conflict.

To Committee on Banks & Trust Companies.

By Senator Gibson.

S. B. 59. An Act relating to the compensation of executors, administrators and curators, and repealing, amending, and re-enacting Kentucky Statutes Section 3883, Carroll's Edition 1930.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

(1) That Kentucky Statutes § 3883, Carroll's Edition 1930, be and is hereby repealed, and that the same be amended by changing the compensation allowed to an executor, administrator or curator, appointed under the laws of Kentucky, by providing for a different basis of compensation, and clarifying the existing law, so that said section, when re-enacted, shall read as follows:

The compensation of an executor, administrator or curator, for services as such, shall not exceed five per cent (5%) of the value of the real and personal estate of the decedent as determined for inheritance tax purposes, plus five per cent (5%) of the income collected by the executor, administrator or curator for the estate. Provided, however, that upon proof submitted showing that an executor, administrator or curator, has performed additional services in the administration of the decedant's estate, which additional services have been either (a) unusual or extraordinary and not normally incident to the administration of a decedent's estate, or (b) performed in connection with estate and inheritance taxes claimed against property not a part of the decedent's estate, but included therein for the purpose of asserting such taxes, then the Court may allow to the executor or administrator such additional compensation as would be fair and reasonable for the additional services rendered.

All laws or parts of laws in conflict herewith are hereby repealed.

To Committee on Courts and Legal Procedure.

By Senator Gibson.

S. B. 60. An Act relating to the compensation of trustees and fiduciaries, by adding after Section 4711, Kentucky Statutes, Carroll's Edition 1930, as amended, a new provision relating to such compensation.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Trustees of estates, guardians of infants, and committees of idiots or lunatics, shall receive for their services as such, a commission of five per cent (5%) of the income collected by any such fiduciary, such commission being payable as the income is collected; and an annual commission of one-fifth of one per cent ( $1/5$  of 1%) of the fair value of the real and personal estate in the care of the fiduciary; or, at the option of the fiduciary, and in lieu of the annual commission on principal, a commission which shall not exceed five per cent (5%) of the fair value of the principal distributed, such latter commission being payable at the time the principal is distributed. In the absence of some provision, agreement, or direction to the contrary, the aforesaid commission on income shall be paid out of the income from the estate, and the aforesaid commission on principal shall be paid out of the principal of the estate. Provided, however, that upon proof submitted showing that a fiduciary of the character aforesaid has performed

additional service in the handling of the estate in the fiduciary's care, which additional services have been unusual or extraordinary and not normally incident to the care and management of an estate, the Court may allow to the fiduciary such additional compensation as would be fair and reasonable for the additional services rendered; and such additional compensation shall be payable out of principal or income, or part out of principal and part out of income, as the Court may in its discretion direct.

All laws or parts of laws in conflict herewith are hereby repealed.

This is a new Bill, there having heretofore been no statute regulating charges of trustees of estates, guardians of infants and committees of idiots or lunatics.

To Committee on Banks and Trust Companies.

By Senator Gibson.

S. B. 61. An Act to clarify the taxation of banks, trust companies, combined banks and trust companies, trust, banking and title insurance companies, and National banks, doing business in Kentucky.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Whereas, a system of taxation of banks, trust companies, combined banks and trust companies, trust, banking and title insurance companies, and National Banks, doing business in

Kentucky, now exists for taxation upon their real estate and their shares of stock; it is hereby enacted:

That the said taxes levied upon the bank, or financial institutions, as the holder of real estate and against their shares as the property of the shareholders, shall be in lieu of all other taxes or licenses of the Commonwealth of Kentucky, or any subdivision thereof.

All laws or parts of laws in conflict herewith are hereby repealed.

To Committee on Revenue & Taxation.

By Senator Bowen.

S. B. 62. An Act to amend and re-enact Sections 317, 326, 328 of the Civil Code of Practice so as to permit the finding of special verdicts by juries in addition to general or separate-general verdicts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Sections 317, 326, 327 and 328 of the Civil Code of Practice be, and the same are hereby, amended to read as follows:

Sec. 317. When the jury has been sworn, the trial shall proceed in the following order, unless the court, for special reasons, otherwise directs:

1. The plaintiff must briefly state his claim and the evidence by which he expects to sustain it.
2. The defendant must then briefly state his defense and the evidence he expects to offer in support of it.
3. The party on whom rests the burden of proof, in the



whole action, must first produce his evidence; the adverse party will then produce his evidence.

4. The parties will then be confined to rebutting evidence, unless the court, for good reasons in furtherance of justice, permits them to offer evidence in chief.

5. When the evidence is concluded, but before the argument to the jury, either party may require the court to direct the jury to find a separate-general verdict with the general verdict, or the court, in its discretion, may, without motion or upon motion of a party require the jury to find a special verdict upon any material issue or issues of fact. If a special verdict be so required, the questions of law may be reserved by the court until after verdict, but if a general verdict be required, either party may ask written instructions to the jury on points of law, which shall be given or refused by the court before the commencement of the argument to the jury.

6. The parties may then submit or argue the case to the jury. In the argument, the party having the burden of proof shall have the conclusion and the adverse party the opening. If there be more than one speech on either side, or if several defendants having separate defenses appear by different counsel, the court shall arrange the relative order of argument.

Sec. 326. The verdict of a jury is general or separate-general or special.

1. A general verdict is that by which the jury pronounces generally, upon all the issues, for the plaintiff or for the defendant.

2. A separate-general verdict is the finding, upon any of the issues, in favor of the plaintiff or of the defendant.

3. A special verdict is the finding of facts by a jury, as shown in their answers to questions submitted to them in writing by the court.

Sec. 327. Unless otherwise directed, the jury may find a general, or a general and separate-general, verdict, or a

special verdict, with or without a general, or a separate-general verdict; but the court may without motion, or upon the motion of a party shall, direct the jury to find—

1. A separate-general verdict, as to any issue; and with such finding the jury shall also return a general verdict; and, if the separate-general verdict be inconsistent with the general verdict, judgment shall be rendered pursuant to the former; or,

2. A special verdict; and, on such finding, the jury shall return a special verdict only; and the court shall render judgment upon it.

Sec. 328. If a general and a special verdict be inconsistent, judgment shall be rendered pursuant to the latter.

To Committee on Judiciary.

By Senator Mayer.

S. B. 63. An Act to make safer public roads, streets and highways and constituting stopping or interfering with traffic or travel on the public highways, roads, and streets of the Commonwealth of Kentucky for the purpose of advertising or soliciting trade or patronage for any business, occupation or enterprise, a misdemeanor and authorizing relief by injunction against persons, firms or corporations, guilty of such practices; repealing all laws and parts of laws in conflict with the provisions of this act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. It shall be unlawful, for the purpose of advertising or soliciting trade or patronage, for any person, firm, or corporation, by or through its agents or employees, to stop, solicit, or interfere with, or attempt to stop or interfere with traffic and travel of vehicles and persons on the public high-

ways, public roads and streets in the Commonwealth of Kentucky and such use of and conduct on such highways, roads and streets is now forbidden. Any person, firm or corporation or its agents or employees who shall violate any provision of this Act is guilty of a misdemeanor and upon conviction shall be fined not less than \$5.00 nor more than \$100.00 for each offense.

§ 2. Any person, firm or corporation or its agents or employees who shall violate any provision of this act shall also be guilty of a public nuisance and the State Highway Commission or any State Agency or any competitor or other person, firm or corporation engaged in business shall have the right to maintain an action in equity in the Circuit Court of the County wherein the offense was committed, to perpetually enjoin any person, firm or corporation, its agents or employees from further violating any of the provisions of this Act.

§ 3. All laws and parts of law in conflict herewith are hereby repealed to the extent of such conflict. If any part or portion or the application of such parts or portions of this Act shall be held unconstitutional or invalid for any reason, the remainder of the Act shall remain in full force and effect.

To Committee on Roads and Highways.

By Senator Mayer.

S. B. 64. An Act providing for monthly advancements to the County Sheriffs in counties containing a population of 75,000, or more; providing for the manner of paying said advancements and accounting for same; and declaring an emergency to exist.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

In counties containing a population of 75,000 or more, the

County Sheriff may be entitled to receive an advancement of not in excess of \$8,000.00 per month to defray necessary officials' expenses and to apply to the payment of the salaries of himself and his deputies and assistants. The Commissioner of Finance shall, on the first day of each calendar month, determine the necessary amount that may be advanced to the County Sheriff, which amount shall not be in excess of one-twelfth of the total fees collected by the Sheriff's office for the preceding year and may, by the approval of the Commissioner of Finance, be for a less amount and in any event shall not exceed \$8,000.00 per month. When approved of the Commissioner of Finance, a warrant shall be drawn on the Treasury in favor of such County Sheriff for such advancement. At the end of each calendar year the sum of such advancements shall be deducted from the part of the total of fees and commission paid into the State Treasury by such County Sheriffs, pursuant to Section 106 of the Constitution of the Commonwealth of Kentucky, which is available for use for the payment of the salaries of the Sheriff, his deputies and assistants and his necessary office expenses. Should the County Sheriff in any such County die, resign, or be removed from office, or should the office of County Sheriff in such County for any cause become vacant, the sums advanced hereunder for purposes aforesaid shall be charged against that part of the fees and commissions of the office of Sheriff of such County which have been, or shall be, paid into the State Treasury during the calendar year in which the said advancements have been made, and which such part is available for payment out of the State Treasury for the salaries of the Sheriff, and his deputies and assistants, and necessary expenses of his office.

In the event the total of fees and commissions paid into the State Treasury by such County Sheriffs for any calendar year are insufficient to match the amount of advancements made to such County Sheriff, the County Sheriff and/or his official bond shall be liable to the Commonwealth for any

excess of advancements over the total of fees and commissions paid into the State Treasury.

Whereas, it is deemed important by the General Assembly that the advancements hereinabove provided for be made as soon as is possible to the Sheriffs of Counties containing a population of 75,000, or more, so that such Sheriffs may properly conduct their offices, an emergency is hereby declared to exist, and this Act shall become effective immediately upon its approval by the Governor.

To Committee on Revenue and Taxation.

By Senator Williams.

S. B. 65. An Act relating to the advancement of credit in the form of scrip for labor performed or to be performed.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Chapter 44 of the Acts of 1932 General Assembly be repealed, amended and re-enacted so that when so amended and re-enacted it shall read as follows:

Any person, firm or corporation engaged in any trade or business may issue, sell, give or deliver upon the request of any employee of such person, firm, or corporation to such employee as a medium of credit in payment for labor performed or for labor to be performed, transferable scrip, tokens, drafts, orders or coupons, payable and redeemable in cash or legal tender when presented by any person, firm or corporation, said redemption to be at such regular settlement day or pay day when the same will have been due in cash had not the said order, scrip or token been issued.

Any person, firm or corporation failing or refusing to pay the holder of said transferable scrip, token, drafts, orders or coupons or any unused portion of the same for which



labor has been performed on their regular settlement day or pay day, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than \$20.00, nor more than \$50.00 for each offense.

The holder of said transferable scrip, tokens, drafts, orders or coupons or any unused portion of same for which labor has been performed or for labor to be performed shall be entitled to 6% six per cent interest per annum until said unpaid scrip, tokens, drafts, orders or coupons have been paid to the holder thereof.

To Committee on Kentucky Statutes No. 1.

By Senator Mayer.

S. B. 66. An Act to define, regulate and license real estate brokers and real estate salesmen in cities of the first, and second class, and within five miles from the corporate limits thereof; to create a state real estate commission, and to provide a penalty for a violation of the provisions thereof.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. On and after the effective date of this Act it shall be unlawful for any person, copartnership, association or corporation, to act as a real estate broker or real estate salesman or to advertise or assume to act as such real estate broker or real estate salesman, in any city of the first and second class, and within five miles from the corporate limits thereof, without a license issued by the Kentucky State Real Estate Commission.

No copartnership, association, or corporation, shall be granted a license, unless every member or officer of such copartnership, association or corporation, who actively participates in the brokerage business of such copartnership, asso-

ciation or corporation, shall hold a license as a real estate broker, and unless every employee who acts as a salesman for such copartnership, association or corporation shall hold a license as a real estate salesman.

§ 2. Wherever used in this Act unless the context requires otherwise,

A real estate broker within the meaning of this Act is any person, firm, partnership, copartnership, association or corporation, who for a compensation or valuable consideration sells or offers for sale, buys or offers to buy, or negotiates the purchase or sale or exchange of real estate, or who leases or offers to lease, or rents or offers for rent, any real estate or the improvements thereon for others, as a whole or partial vocation. The term "real estate" as used in this Act shall include leaseholds and other interests less than leaseholds.

A real estate salesman within the meaning of this Act is any person who for a compensation or valuable consideration is employed either directly or indirectly by a real estate broker, to sell or offer to sell, or to buy or offer to buy, or to negotiate the purchase or sale or exchange of real estate, or to lease, to rent or offer for rent any real estate, or to negotiate leases thereof, or of the improvements thereon, as a whole or partial vocation.

One act for a compensation or valuable consideration of buying or selling real estate of or for another, or offering for another to buy or sell, or exchange real estate, or leasing, or renting, or offering to rent real estate, except as herein specifically excepted, shall constitute the person, firm, partnership, copartnership, association or corporation, performing, offering, or attempting to perform any of the acts enumerated herein, a real estate broker or a real estate salesman within the meaning of this Act.

The provisions of this Act shall not apply to any person, copartnership, association or corporation, who as owner or lessor shall perform any of the Acts aforesaid with reference to property owned or leased by them, or to the regular em-

ployees thereof, with respect to the property so owned or leased, where such acts are performed in the regular course of, or as an incident to, the management of such property and the investment therein, nor shall the provisions of the Act apply to persons acting as attorney-in-fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing, or exchange of real estate, nor shall this Act be construed to include in any way the services rendered by an attorney-at-law in the performance of his duties as such attorney-at-law; nor shall it be held to include, while acting as such, a receiver, trustee in bankruptcy administrator or executor, or any person selling real estate under order of any court, nor to include a trustee acting under a trust agreement, deed or trust, or will, or the regular salaried employees thereof.

§ 3. There is hereby created the State Real Estate Commission. The Governor shall appoint three persons, each of whom, immediately prior to the date of his appointment, has been a resident of the State and of a City of the first and second class and within five miles from the corporate limits thereof for five years and whose vocation for a period of at least ten years shall have been that of a real estate broker or a real estate salesman; one member shall be appointed for a term of one year; one member shall be appointed for a term of two years; one member for a term of three years; and until their successors are appointed and qualify, thereafter the term of the members of said Commission shall be for three years and until their successors are appointed and qualify. Members to fill vacancies shall be appointed for the unexpired term. The commission immediately upon the qualification of the member appointed in each year shall organize by selecting from its members a chairman, and may do all things necessary and convenient for carrying into effect the provisions of this Act and may from time to time promulgate necessary rules and regulations.

Each member of the Commission shall receive as full com-

pensation for each day actually spent on the work of said Commission the sum of \$10.00 per day and his actual and necessary expenses incurred in the performance of duties pertaining to his office.

The Commission shall employ, and at its pleasure discharge a secretary and such clerks and assistants as shall be deemed necessary to discharge the duties imposed by the provisions of this Act, and shall outline their duties, and fix their compensation, subject to the general laws of the State. The Commission shall obtain such office space, furniture, stationery, fuel, light, and other proper conveniences as shall be reasonably necessary for carrying out the provisions of this Act.

The Commission shall adopt a seal with such design as the Commission may prescribe engraved thereon, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the Commission, duly certified and authenticated by the seal of said Commission shall be received in evidence in all courts equally and with like effect as the original. All records kept in the office of the Commission under authority of this Act shall be open to public inspection under such rules and regulations as shall be prescribed by the Commission.

All fees and charges collected by the Commission under the provisions of this Act shall be paid into the general fund in the State Treasury. All expenses incurred by the Commission under the provisions of this Act, including compensations to members, secretaries, clerks and assistants, shall be paid out of the general fund in the State Treasury upon warrants of the Auditor of Public Accounts and/or Director of Finance as warrants generally are required to be drawn by the Statutes governing such respective offices from time to time, when vouchers therefor are exhibited and approved by the Commission; Provided, that the total expense for every purpose incurred shall not exceed the total fees, charges, fines, and pen-



alties imposed under the provisions of this Act, and paid into the State Treasury.

§ 4. Every applicant for a real estate broker's license shall apply therefor in writing upon blanks prepared or furnished by the Real Estate Commission.

Every applicant for a broker's license shall state the name of the person, firm, partnership, copartnership, association or corporation with which he will be associated in the business of real estate, and the location of the place, or places, for which said license is desired, and set forth the period of time, if any, which said applicant has been engaged in the real estate business.

Every applicant for a license shall furnish a sworn statement setting forth his present address, both of business and residence.

Every applicant for a salesman's license shall in addition to the requirements of this Section also set forth the name and place of business of the present firm, partnership, copartnership, association or corporation then employing him or into whose service he is about to enter.

Each application shall state whether or not the applicant has ever theretofore had any license provided for by this Act and issued to him revoked or suspended.

Every application for a license, under the provisions of this Act, shall be accompanied by the license fee herein prescribed. In the event that the Commission does not issue the license, the fee shall be returned to the applicant.

Every application for a license shall be accompanied by a bond in the sum of One Thousand Dollars (\$1000.00) running to the State of Kentucky, executed by two (2) good and sufficient sureties to be approved by the Commission or executed by a surety company duly authorized to do business in this State. Said bond to be in form approved by the Commission, and conditioned that the applicant shall conduct his business in accordance with the requirements of this Act.

The Commission is expressly vested with the power and



authority to make and enforce any and all such reasonable rules and regulations connected with the application for any license as shall be deemed necessary to administer and enforce the provisions of this Act.

§ 5. The Commission shall issue to each licensee a license in such form and size as shall be prescribed by the Commission. This license shall show the name and address of the licensee and in case of a real estate salesman's license, shall show the name of the real estate broker by whom he is employed. Each license shall have imprinted thereon the seal of the Commission, and in addition to the foregoing shall contain such matter and shall be prescribed by the Commission. The license of each real estate salesman shall be delivered or mailed to the real estate broker by whom such real estate salesman is employed and shall be kept in the custody and control of such broker. It shall be the duty of each real estate broker to conspicuously display his license in his place of business.

The Commission shall prepare and deliver to each licensee a pocket card, which card among other things shall contain an imprint of the seal of the Commission and shall certify that the person whose name appears thereon is a licensed real estate broker or real estate salesman, as the case may be, and if it is a real estate salesman's card it shall also contain the name and address of his employer. The matter to be printed on such pocket card, except as above set forth, shall be prescribed by the Commission.

The original fee for each real estate broker's license shall be Ten Dollars (\$10.00), and for the annual renewal fee shall be Five Dollars (\$5.00). The original fee for each real estate salesman's license shall be Two Dollars (\$2.00) and for the annual renewal fee shall be One Dollar (\$1.00). Provided, that when a copartnership, association or corporation shall have paid an original fee of Ten Dollars (\$10.00) or a renewal fee of Five Dollars (\$5.00) and shall have designated one of its members or officers as hereinafter provided in this sec-

tion, the fees payable by any other member or officer actively engaged in the real estate business of such copartnership, association or corporation shall be Two Dollars (\$2.00) for the first registration fee and One Dollar (\$1.00) for the renewal fee, for which a salesman's license shall be issued, but any such member or officer shall be entitled to a broker's license upon the payment of the usual fee therefor.

When a real estate broker's license is granted to any copartnership or association, consisting of more than one person, or to any corporation, this shall entitle the copartnership, association or corporation to designate one of its members or officers, who upon compliance with the terms of this Act shall, without payment of any further fee, upon issuance of said broker's license, be entitled to perform all of the acts of a real estate salesman contemplated by this Act. The person so designated, however, must make application for a salesman's license, which application shall accompany the application of the real estate broker, and be filed with the Commission, at the same time. If, in any case the person so designated by a real estate broker shall be refused a license by the Commission, or in case such persons ceases to be connected with such real estate broker, said broker shall have the right to designate another person who shall make application as in the first instance.

Each real estate broker's license which may be granted to an individual shall entitle such individual to perform all of the acts contemplated by this Act without any application upon his part and without payment of any fee other than the real estate broker's annual fee.

Every license shall expire on the thirtieth day of June of each year. The Commission shall issue a new license for each ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of a license, upon receipt of the written request of the applicant and the annual fee therefor, as herein required. The revocation of a broker's license shall automatically suspend every real estate

salesman's license granted to any person by virtue of his employment by the broker whose license has been revoked, pending a change of employer and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which original license was granted.

No person, co-partnership or corporation engaged in the business of acting in the capacity of a real estate broker or a real estate salesman within any city of the first and/or second class, and within five miles from the corporate limits thereof, of this State shall bring or maintain any action in the Courts of this State for the collection of compensation for any services performed as a real estate broker or salesman without alleging and providing that such person, co-partnership or corporation was duly licensed real estate broker or real estate salesman at the time the alleged cause of action arose.

Notice in writing shall be given to the Commission by each licensee of any change of principal business location whereupon the Commission shall issue a new license for the unexpired period without charge. The change of business location without notification to the Commission shall automatically cancel the license theretofore issued.

When any real estate salesman shall be discharged or shall terminate his employment with the real estate broker by whom he is employed, it shall be the duty of such real estate broker to immediately deliver or mail by registered mail to the Commission such real estate salesman's license. The real estate broker shall at the time of mailing such real estate salesman's license to the Commission address a communication to the last known residence address of such real estate salesman, which communication shall advise such real estate salesman that his license has been delivered or mailed to the Commission. A copy of such communication to the real estate salesman shall accompany the license when mailed or delivered to the Commission. It shall be unlawful for any real estate salesman to perform any of the acts contemplated

by this Act either directly or indirectly under authority of said license from and after the date of receipt of the said license from said broker by the Commission; Provided, that another license shall not be issued to such real estate salesman until he shall return his former pocket card to the Commission or shall satisfactorily account to it for the same. Provided, further, that not more than one license shall be issued to any real estate salesman for the same period of time.

§ 6. The Commission may upon its own motion and shall upon the verified complaint in writing of any person, provided such complaint, or such complaint together with evidence, documentary or otherwise, presented in connection therewith, shall make out a *prima facie* case, investigate the actions of any real estate broker or real estate salesman, or any person who shall assume to act in either such capacity within this State, and shall have the power to suspend or to revoke any license issued under the provisions of this Act, at any time where the licensee has by false or fraudulent representation obtained a license, or where the licensee in performing or attempting to perform any of the acts mentioned herein, is deemed to be guilty of:

- (a) Making any substantial misrepresentation, or
- (b) Making any false promises of a character likely to influence, persuade or induce, or
- (c) Pursuing a continued and flagrant course of misrepresentation, or making of false promises through agents or salesmen or advertising or otherwise, or
- (d) Acting for more than one party in a transaction without the knowledge of all parties for whom he acts, or
- (e) Accepting a commission or valuable consideration as a real estate salesman for the performance of any of the acts specified in this Act, from any person, except his employer, who must be a licensed real estate broker, or
- (f) Representing or attempting to represent a real estate broker other than the employer, without the express knowledge and consent of the employer, or



(g) Failing, within a reasonable time, to account for or remit any moneys coming into his possession which belongs to others, or

(h) Paying a commission or valuable consideration to any person for acts or services performed in violation of this Act, or

(i) Using the term "Realtor" by one not a member of the National Association of Real Estate Boards, or

(j) Any other conduct, whether of the same or a different character from that hereinbefore specified, which constitutes improper, fraudulent, or dishonest dealings.

Any unlawful act or violation of any of the provisions of this Act by any real estate salesman, employee partner or associate of a licensed real estate broker, shall not be cause for the revocation of a license of any real estate broker, partial or otherwise, unless it shall appear to the satisfaction of the Commission that said employer, partner or associate had guilty knowledge thereof.

Any person who shall have had any license issued to him under the provisions of this Act revoked as herein provided, shall not be granted any like or other license authorized under the provisions of this Act for a period of five years from the date of such revocation.

§ 7. The Commission shall before denying an application for license or before suspending or revoking any license set the matter down for a hearing and at least twenty days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all such hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of same personally to the applicant or licensee or by mailing same by registered mail to the last known business address of such applicant or licensee. If such applicant or licensee be a salesman the commission shall also notify the



broker employing him or in whose employ he is about to enter by mailing notice by registered mail to the broker's last known business address. The hearing on such charges shall be at such time and place as the commission shall prescribe.

In the preparation and conduct of hearing the Commission shall have power to require by subpoena the attendance and testimony of witnesses and the production of papers, and any member of the Commission may sign subpoena, administer oaths and affirmations, examine witnesses and receive evidence, the fees and mileage shall be the same as prescribed by law in judicial procedure in the Courts of this State in civil cases. Any party to any hearing before the Commission shall have the right to the attendance of witnesses in his behalf at such a hearing upon making a request thereof to the commission and designating the person or persons sought to be subpoenaed.

In case of disobedience to a subpoena any member of the Commission may invoke the aid of any Court of competent jurisdiction in requiring the attendance and testimony of witnesses and the production of papers; and such Court may issue an order requiring the persons to appear before the Commission and give evidence or to produce papers as the case may be; and any failure to obey such order of the Court may be punished by the Court as contempt thereof.

Testimony may be taken by deposition as in civil cases, and any person may be compelled to appear and depose in the same manner as witnesses may be compelled to appear and testify as hereinbefore provided.

Any person who shall neglect or refuse to attend and testify or to answer any lawful inquiry or to produce documentary evidence if in his power to do so in obedience to a subpoena or lawful requirement by such Commission or member thereof shall be guilty of a misdemeanor and upon conviction thereof by a Court of competent jurisdiction shall be punished as provided in this Act.

If the Commission shall determine that any applicant is

not entitled to receive a license, a license shall not be granted to such applicant, and if the Commission shall determine that any licensee is guilty of a violation of any of the provisions of this Act, the license shall be suspended or revoked. The Commission upon request of the applicant or licensee, shall furnish said applicant or licensee with a definite statement of its finding of facts and its reason or reasons for refusing to grant the license or for suspension of the rights of the licensee, or for the revocation of the license, as the case may be. The findings of fact made by the Commission acting within its powers shall, in the absence of fraud, be conclusive.

Any party aggrieved by the action of the Commission in refusing to grant a license or in suspending or revoking a license may, within ten days, after the entry or such order or refusal, revocation or suspension, file in the office of the Clerk of the Circuit Court of the county wherein is situated the city of the first class and/or second class in which the action of the Commission is applicable, an attested copy of the proceedings before the Commission, provided he shall first post a bond to secure the costs of the action in such sum as may be approved by the Clerk of the Circuit Court, with good and solvent surety. The Commission shall be a necessary party to all such appeals. The Circuit Court Clerk shall thereupon docket the case as though it were a petition in equity and shall immediately issue a summons for such Commission, and said summons shall be returned in the same manner as are summonses in equity cases. No formal pleadings shall be required in such appeals but the case shall be set down by the Court for as early a date as possible for a hearing, and after such hearing the Court shall enter a judgment sustaining or setting aside the order of the Commission. Either party may appeal to the Court of Appeals from the judgment of the Circuit Court in the same manner as an appeal can be taken from a judgment in equity cases.

§ 8. A non-resident of this State may become a real estate broker or a real estate salesman in any city of the first

class and/or city of the second class, and within five miles from the corporate limits thereof, by conforming to all the conditions of this paragraph and this Act.

In its discretion the Commission may recognize in lieu of the statements required to accompany an application for license, the license issued to a non-resident broker, or salesman in such other State, upon payment of the licensee fee and the filing by the applicant with the Commission of a certified copy of applicant's license issued by such other State.

(a) Provided that such applicant, if a broker, shall maintain an active place of business in the State by which he is originally licensed; and

(b) Provided further that every non-resident applicant shall file an irrevocable consent that suits and actions may be commenced against such applicant in the proper court of any county of this State in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this State on the Secretary of the Commission, said consent stipulating and agreeing that such service of such process or pleadings on said Secretary shall be taken and held in all Courts to be as valid and binding as if due service had been made upon said applicant in the State of Kentucky. Said instrument containing such consent shall be authenticated by the seal thereof, if a corporation, or by the acknowledged signature of a member or officer thereof, if otherwise. All such applications, except from individuals, shall be accompanied by the duly certified copy of the resolution of the proper officers or managing board, authorizing the proper officer to execute the same. In case any process or pleadings mentioned in the case are served upon the Secretary of the Commission, it shall be by duplicate copies, one of which shall be filed in the office of the Commission and the other immediately forwarded by registered mail to the main office of the applicant against which said process or pleadings are directed.

(c) Provided, further, however, that every non-resident

of this State shall file a bond in form and content the same as is required of applicants under Section 4, in this Act.

§ 9. The Commission shall at least semi-annually publish a list of the names and addresses of all licensees licensed by it under the provision of this Act, and of all persons whose license has been suspended or revoked with one (1) year; together with such other information relative to the enforcement of the provisions of this Act as it may deem of interest to the public. One of such lists shall be mailed to the County Clerk in each County of the State wherein is located a city of the first and second class, and within five miles from the corporate limits thereof; and shall be held by said County Clerk as a public record. Such lists shall also be mailed by the Commission to any person in this State upon request.

§ 10. Any person or corporation violating a provision of this Act shall upon conviction be punished by a fine of not less than Ten Dollars (\$10.00) nor more than One Hundred Dollars (\$100.00), within the discretion of the Court. Any officer or agent of a corporation, or member or agent of a copartnership or association, who shall personally participate in or be accessory to any violation of this Act, by such copartnership, association, or corporation, shall be subject to the penalties herein prescribed for individuals.

§ 11. If any section, subsection, sentence, clause, phrase or requirement of this Act is for any reason held to be unconstitutional, such decision shall not effect the validity of the remaining portions thereof. The Legislature hereby declared that it would have passed this Act and each section, subsection, sentence, clause, phrase and requirement thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or requirements be declared unconstitutional.

§ 12. Nothing in this Act contained shall affect the power of cities of the first class and/or second class to tax, license and regulate real estate brokers. The requirements hereof shall be in addition to the requirements of any exist-



ing or future ordinances of any such city so taxing, licensing, or regulating real estate brokers.

§ 13. It is the intention of this Act that the provisions hereof shall in no way nor manner by specific relation thereto or by implication thereof, or otherwise affect, amend or repeal any of the provisions of the Re-Organization Act of 1936 (Act of the First Extraordinary Session of 1936), and the purposes, provisions and intentions of the Act shall be under the direct supervision, control and regulation of the Department of Business and Professional Regulations, as prescribed by the Re-Organization Act of 1936 (Act of the First Extraordinary Session of 1936).

To Committee on Municipalities.

By Senator E. C. Moore.

S. B. 67. An Act amending Section 20 of Article 5 of Chapter 65 of the Acts of the General Assembly of 1934, being Section 4399-25, Carroll's Kentucky Statutes, 1936 Edition, relating to election of district school board members.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section twenty (20) of Article five (5) of Chapter sixty-five (65) of the Acts of the General Assembly of nineteen hundred thirty-four (1934) being Section four thousand three hundred ninety-nine-twenty-five (4399-25) Carroll's Kentucky Statute, 1936 edition, be and the same hereby is amended by repealing said Section in its entirety and re-enacting same so that as amended and re-enacted said Section will read as follows, to wit:

Section 4399-25. *Election by secret ballot; nominating petition; ballots; general election laws applicable; procedure.*

All elections for members of boards of education shall be



by secret ballot. Said ballot shall be on a separate sheet from all other ballots to be used in any election. It shall be the duty of the county clerk to cause to be printed on said ballot the names of all candidates for membership on a board of education, in whose behalf he may be petitioned so to do in writing, by not less than fifty legal voters of a school district; provided that in independent districts embracing cities of the first and second classes the number of such petitioners shall not be less than one hundred (100). The petition must be filed in the office of the county clerk not more than sixty and not less than fifteen days before the day of election, and each petition must be signed by the requisite number of qualified persons and shall show the place of residence of each person signing it, and no person shall sign more petitions than the number of offices to be filled. Said Ballot shall be in the form prescribed for ballots by the general election law of the Commonwealth, except that no party emblems or other emblem or distinguishing mark shall be placed upon said ballot, save the words, "School Ballot" at the head thereof; and that the names of all candidates for membership on the board of education shall be printed on the first fifty ballots in a single column in the order the petitions are filed. On each of the succeeding fifty ballots the names shall be printed in the same order, save that the last name on the preceding fifty ballots shall be shifted to the first place; and so on thereafter throughout, a like change being made in the printed order of names for every fifty ballots; and such ballots shall be so bound that in the book of ballots for each voting precinct each candidate's name will appear first on approximately the same number of ballots as that of every other candidate. As many additional lines shall be left blank as there are members to be elected.

The general election laws of the Commonwealth of Kentucky shall apply in all school elections as set out in this act; and provided that it shall be the duty of the sheriff of each county in which a school district is situated to provide for each precinct in such district a box for the reception of the

ballots used in the election of members of the board of education; and provided further that it shall be the duty of the judge of election of the opposite political party to the clerk of election in each precinct to issue the school ballots in the same manner as other ballots are issued by the clerk of election, by writing the name and residence of the voter upon the primary stub and his registered number, in districts where registration is required by law, upon the secondary stub of the school ballot, and by observing, as to these ballots, such other regulations for the issue and deposit of ballots as may be prescribed for elections generally. It shall be unlawful for an election officer or other person within the election booth to tell or to indicate by word of mouth or otherwise to a voter what may be the political affiliation of any candidate, and violation of this provision shall be a misdemeanor punishable by fine not exceeding two hundred dollars (\$200). The expense of said election shall be paid by the fiscal court out of the general funds of the county in all school districts except those embracing cities of the first five classes; in such case, the expense of the election shall be paid by the city from its general funds.

All laws in conflict herewith are hereby repealed.

To Committee on Education.

By Senator Attkisson.

S. B. 68. An Act to provide approved high school services for all pupils.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That it shall be the duty of the Board of Education of each county to provide approved high school service within the county for all children of high school grade residing

in the county district and the duty of each independent district Board of Education to provide such service within its district for all children of high school grade residing in such district; provided that if the number of such pupils of either race is not sufficient in any county or independent district to maintain a high school, the board shall provide it by transporting them daily to an approved high school in another county or district, or shall do so by providing for their maintenance within reasonable walking distance of such school if it is found more feasible or more economical to do so.

To Committee on Education.

By Senator Attkisson.

S. B. 69. An Act to repeal and re-enact subsection 1 of Section 1137-1 of Kentucky Statutes, Carroll's Edition of 1936, being Chapter 163 of the Acts of the General Assembly of 1920, relating to the death penalty for the crime of rape.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That sub-section one of section one thousand one hundred and thirty-seven (1137-1) of the Kentucky Statutes, Carroll's edition of 1936, being chapter 163 of the Acts of the General Assembly of 1920, be and the same is hereby repealed, and re-enacted to read as follows:

“That from and after the period that this law shall take effect the mode of the execution of a death sentence must in every case be by causing to pass through the body of the condemned a current of electricity of sufficient intensity to cause death as quickly as possible, and the application of such current must be continued until the condemned is dead.

All executions of the death penalty by electrocution shall take place within the walls of the state penitentiary, hereafter

indicated by the Board of Prison Commissioners, and in such enclosure as will exclude public view thereof.”

To Committee on Criminal Law.

By Senator Attkisson.

S. B. 70. An Act to prohibit the Board of Education or Superintendent of Schools of any city within this Commonwealth from adopting or having any rules, regulations, laws or policy in the restraint of marriage of any public school teacher who has had 5 years or more teaching experience within the public schools of this Commonwealth, and declaring and carrying into effect the public policy of this State with respect to marriage.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That whereas the contract of marriage is one of the most important of all human transactions, and being the very basis of the whole fabric of society; the marriage status and the freedom to enter into the contract of marriage is of vital interest to the public creating the most important relation in life.

That the Board of Education or the Superintendent of Public Schools of any city within this State shall be prohibited from having, adopting or making any rules, regulations, laws or policy in the restraint of marriage of any public school teacher who has had five (5) years or more teaching experience within the public schools of this State.

That all rules, regulations, laws or policies in conflict with this Act and the purpose thereof shall be of no effect; and it is hereby declared as the public policy of this State.

To Committee on Education.

By Senator See.

S. B. 71. An Act to amend Section 965, Carroll's Ken-

tucky Statutes, 1936 Edition, and being the time of holding court in the 24th Judicial District, composed of Johnson and Martin Counties and fixing the time therefor, relating to Circuit Courts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 965, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is amended with reference to the Twenty-Fourth Judicial District of Kentucky, and as amended shall read as follows:

*Johnson County—at Paintsville, Kentucky—beginning on the Second Monday in February, Twenty-four juridical days; Second Monday in June, Twenty-four juridical days; Second Monday in November, Twenty-four juridical days.*

*Martin County—at Incz, Kentucky, beginning on the Third Monday in January, Eighteen juridical days; Third Monday in May, Eighteen juridical days; Third Monday in September, Eighteen days.*

§ 2. This Act shall be effective on and after July 1st, 1938.

§ 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

To Committee on Courts and Legal Procedure.

By Senator Ray B. Moss.

S. Res. 18. An Act for the Benefit of Lieutenant O. J. Wilson, and Officer in Company C 149th Infantry United States Guard, who received serious and painful injuries in the service of the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

Whereas, the Honorable A. B. Chandler, Governor of the



Commonwealth of Kentucky, directed a certain force of the United States Guard under the command of Captain Ben C. Herndon to Harlan County, Kentucky, in November, 1937, and

Whereas, Lieutenant O. J. Wilson, being one of the officers of said United States Guard and being in Harlan County pursuant to the order of the Honorable Governor, as above set forth, was, on November 6, 1937, directed by his superior officers and detailed by them to ascertain whether any troops or men off duty were present in a certain road house, and Bell County Country Club, in Bell County, Kentucky, and,

Whereas, the said O. J. Wilson, in the performance of his duties and in obedience to the order of his superior officers, went to said road house for the purpose of carrying out the orders of his superior officers, and,

Whereas, the said Lieutenant O. J. Wilson was there attacked and brutally assaulted and injured, with a pistol or other sharp or heavy or dangerous weapon by a civilian, one Frank White, said attack being without provocation or fault on the part of the said Lieutenant O. J. Wilson, and,

Whereas, in consequence thereof the said Lieutenant Wilson did then and there suffer a severe head injury and scalp injury and considerable loss of blood and a total severing of the temporal artery and a permanent damage to the optic nerve of the left eye, and the further possibility of more serious future results, to wit: cystic degeneration to the tissues of the brain, the ultimate result of which would be the loss of life of the said O. J. Wilson, and,

Whereas, all of said injuries were suffered by the said Lieutenant O. J. Wilson in the performance of his duties and in the obedient and faithful execution of the work assigned to him, and in the service of the Commonwealth of Kentucky, and,

Whereas, the said Lieutenant O. J. Wilson suffered an actual loss of \$137.50 in physicians' and surgeons' bills, medical supplies and hospitalization, and,

Whereas, the said O. J. Wilson, being dependent for a

livelihood upon his position as a teacher in the public schools of this Commonwealth, was incapacitated from any and all work for a period slightly in excess of two weeks, representing a monetary loss, in addition to the losses above enumerated, of \$60.00 in salary, the said O. J. Wilson being unable to perform any work of any character for said period, and,

Whereas, under present laws, the said Lieutenant O. J. Wilson has no means of being reimbursed, either for the injury suffered by him or for the expenditures necessarily lost thereby: Now, Therefore,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That the Auditor of Public Accounts is directed to draw his warrant upon the State Treasurer for the sum of \$500.00 in favor of the said Lieutenant O. J. Wilson.

§ 2. That this Act shall take effect from and after its passage.

To Committee on Kentucky Statutes No. 1.

By Senator Williams.

S. Res. 19. Resolution authorizing Lavina Pope to file suit against the Commonwealth of Kentucky, or the State Highway Commission of Kentucky, or either, or both of them.

Said resolution is as follows, viz.:

WHEREAS, during the years 1931-1932, and 1933, the State Highway Commission of Kentucky built and constructed a public highway in Harlan County, State of Kentucky, from the city of Harlan in said County and State up and along Martin's Fork of the Cumberland River to the Kentucky-Virginia state line; and,

WHEREAS, the said Lavina Pope during all of the said years was, had been for some time prior thereto, has been at

all times since, and now is the owner of the following described land and real estate, to-wit:

Beginning at an elm on the north line of the Louisville and Nashville Railroad Company's right of way up Martin's Fork and on the south side of said Martin's Fork; thence eastwardly with the North line of said right of way to Bob's Creek; thence northwardly down with Bob's Creek to Martin's Fork; thence down Martin's Fork river to the beginning.

WHEREAS, there was at all of said times and now is, situated on said land, two eight-room dwelling houses, and two three-room dwelling houses; and,

WHEREAS, the said tract of land borders on the said Martin's Fork of the Cumberland River on one side; and,

WHEREAS, the said state highway was constructed up and along the said Martin's Fork on the bank of same opposite to the land of Lavina Pope above described; and,

WHEREAS, in constructing the same highway, the said State Highway Commission of Kentucky dynamited and removed large amounts of dirt, trees, rocks, ground and debris from the right of way of said road, and placed, dumped, and dynamited all, or a large part of, said dirt, rocks, trees, ground and debris on the bank of and into the bed and channel of said Martin's Fork river, thereby forming an obstruction and in said Martin's Fork river and causing the waters of same adjacent to and above said land to dam and accumulate and overflow the said land and changing and diverting the said Martin's Fork river from its usual, customary and natural course and channel over and upon said land and real estate of Lavina Pope and causing same to flow over, upon, and through said land, and thus damaging, ruining, and destroying said tract of land and the dwellings situated thereon; and,

WHEREAS, the damages to said land and buildings amounts to the sum of at least \$10,000; and,

WHEREAS, no compensation whatever has ever been received by, or paid to, the said Lavina Pope, or to anyone for her use or benefit, by the said State Highway Commission, or

the Commonwealth of Kentucky, or anyone whatsoever for the said damage to her land and real estate:

*Therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Lavina Pope, in her own right and name, be and she is hereby empowered and authorized to file and prosecute appropriate action or actions against the Commonwealth of Kentucky or the State Highway Commission of Kentucky, or either or both of same, for the purpose of determining the responsibility of the said Commonwealth of Kentucky or the said State Highway Commission of Kentucky, or both or either of them, for said damages to said land, if any there be.

Such action or actions may be brought within five years from the passage of this resolution and in any circuit court of the Commonwealth of Kentucky which may have jurisdiction of such matters as provided by the code and laws of the State of Kentucky in such cases, and may be joined with any action or actions pending wherein circuit courts have competent jurisdiction of the subject matter and parties.

Said suit for Lavina Pope for injuries and damages to said land shall be for any sum not exceeding \$10,000, and in the event any judgment is recovered by the said Lavina Pope for injuries and damages to said land, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the General Fund.

Either party to said suit or suits may appeal from any judgment which may be entered therein as in any other civil action, and the case may be settled and adjusted by and with the consent and approval of the Attorney-General of the State of Kentucky in the same way and manner as any other civil action may be settled or adjusted.

To Committee on Kentucky Statutes No. 1.

By Senator Barbour.

S. Res. 20. Joint Resolution directing the payment to William D. Overton of the sums directed to be paid pursuant to the Joint Resolution of the General Assembly, for the benefit of William D. Overton, approved March 15, 1924, and appearing in the Acts of the General Assembly of 1924, as Chapter 297, on page 614.

Said resolution is as follows, viz.:

WHEREAS, the Act of the General Assembly of 1938, Known as the Budget Act, does not specifically mention the item herein referred to:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That said Budget Act shall in no wise be construed as a repudiation of the obligation of the Commonwealth of Kentucky provided in the Act approved March 15, 1924, being Chapter 297 of the Acts of 1924, nor shall said Budget Act of 1938 be construed as a repeal of said Act of March 15, 1924, providing the payment of Fifty Dollars (\$50.00) per month to said William D. Overton so long as he shall live.

§ 2. That the Auditor of Public Accounts is directed to draw his warrants upon the Treasurer payable to the said William D. Overton, in such amounts and at such times as they severally mature pursuant to said Act of March 15, 1924.

To Committee on Appropriations.

#### REPORTS OF COMMITTEES

Senator Ervine Turner of the Committee on Reapportionment to which the same had been previously referred reported a bill of the following title, viz.:

H. B. 54. An Act creating the Thirty-eighth Judicial



District of Kentucky, fixing the time of holding courts thereof; changing the Sixth, Seventh and Eighth Judicial Districts, as is necessary by the creation of the Thirty-eighth Judicial District, and fixing the time of holding the courts thereof; providing for the appointment and election of a Circuit Judge and a Commonwealth's Attorney for the Thirty-eighth Judicial District; providing for present Circuit Judges of the Sixth- Seventh and Eighth Judicial Districts to continue for the term for which elected; and declaring an emergency to exist.

Whereas there has been a large increase of the population and a large development of the resources of the present Sixth, Seventh and Eighth Judicial Districts of Kentucky, and whereas litigation in Equity in each of said districts has increased to such an extent that it is impossible for the judges in said districts to do the work required of them in the equity branch of the courts and also sit as trial judge in the common law and criminal branches of said courts in the time now allotted by law, or which could be allotted by law, and

Whereas, by reason of these facts the equity and trial dockets of some of the counties of said districts are congested, and it is impossible for the judges to keep up with the docket, Now, Therefore:

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and ordered placed in the Calendar.

Senator Gilbert moved that the Senate do now resolve itself into a Committee of the Whole Senate for the purpose of considering said bill.

Senator E. C. Moore offered to amend said motion as made by Senator Gilbert as follows: That the Senate resolve itself into a Committee of the Whole Senate for the purpose

of considering said bill at one o'clock, p. m., January 18th, 1938.

Said amendment was agreed to.

Whereupon, said motion as amended was agreed to.

Senator Gilbert moved that the Senate do now adjourn to meet again at twelve-thirty o'clock, p. m., January 18th, 1938.

Said motion was agreed to.

And then the Senate adjourned.

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## TUESDAY, JANUARY 18, 1938.

The Senate convened and was called to order by the President of the Senate, the Honorable Keen Johnson, Lieutenant Governor of the Commonwealth.

The Senate was opened with prayer by the Reverend Walter Cropper, pastor of the Methodist Church, Frankfort, Kentucky.

The roll of the Senate was called, and the following members answered to their names, viz.:

Wm. R. Attkisson	J. Joseph Hettinger	Jos. P. Tackett
Aubrey Barbour	Wm. H. Jones, Jr.	Ervine Turner
Paul M. Basham	J. W. McDonald	Thomas O. Turner
Ollie J. Bowen	Strother Melton	E. T. Wesley
Waller A. Crockett	E. C. Moore	Otis White
Edwin C. Dawson	Dr. R. C. Moss	O. C. Whitfield
W. C. Farmer	Ray B. Moss	J. E. Wise
Lee Gibson	James C. Rogers	J. M. Wolfenbarger
Ralph Gilbert	Ira W. See	
John M. Hall	Paul L. Sidebottom	

Senator E. C. Moore moved that the reading of the Journal of the proceedings of Monday, January 17th, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.

Senator Crockett moved that the rules be suspended and the privilege of the floor be extended to Messrs. Frank Hendrickson and Richard Hanks of Maysville, Kentucky.

Said motion was unanimously agreed to.

Senator Rogers moved that the rules be suspended and the privilege of the floor be extended to the Honorable Leonard J. Crawford, President of the State Bar Association.

Said motion was unanimously agreed to.

Senator Rogers moved that the rules be suspended and the privilege of the floor be extended to the Honorable L. B. Alexander, Vice President of the State Bar Association.

Said motion was unanimously agreed to.

Senator Rogers moved that the rules be suspended and the privilege of the floor be extended to Mr. Sam Rosenstein, Secretary of the State Bar Association.

Said motion was unanimously agreed to.

Senator Rogers moved that the rules be suspended and the privilege of the floor be extended to the Honorable Harry B. McCoy.

Said motion was unanimously agreed to.

Senator White moved that the rules be suspended and the privilege of the floor be extended to Messrs. Lyman Barrett, Clarence James and Wendell Ralph of Ohio County.

Said motion was unanimously agreed to.

Senator Ray B. Moss moved that the rules be suspended and the privilege of the floor be extended to Messrs. J. Corbett Knapp and H. C. Beaver of Vanceburg, Kentucky.

Said motion was unanimously agreed to.

Senator Gilbert moved that the rules be suspended and the privilege of the floor be extended to Mrs. Sarah Waters.

Said motion was unanimously agreed to.

Senator T. O. Turner moved that the rules be suspended and the privilege of the floor be extended to Mr. A. T. Cunningham of Cadiz, Kentucky, Mr. Hancock, Lafayette, Kentucky, and Mr. Tuck of Louisville, Kentucky.

Said motion was unanimously agreed to.

Senator Basham moved that the rules be suspended and the privilege of the floor be extended to former Senator Bartlett, Judge Murray Brown and Mr. J. W. Kirk.

Said motion was unanimously agreed to.

### HOUSE MESSAGE

A message was received from the House announcing that they had passed bills and resolutions which originated in that body of the following titles, viz.:

H. B. 38. An Act empowering Dr. L. S. Siler of Whitley

County, Kentucky, to institute and maintain action against the Commonwealth of Kentucky for damages, and, in event of recovery providing for payment of judgment recovered in said action.

Ordered that said bill be printed and referred to Committee on Kentucky Statutes No. 1.

Said bill is as follows, viz.:

WHEREAS, Dr. L. S. Siler of Whitley County, Kentucky on April 9, 1937, sustained serious bodily injury and property loss while using U. S. Highway 25E between London in Laurel County, Kentucky, and Corbin in Whitley County, Kentucky, on account of collision with a train of motor vehicles owned and being moved by the Commonwealth of Kentucky through the Highway Department of Kentucky and its employees, consisting of a truck, roller carrier, ten-ton roller and another highway truck, moving as one unit; and

WHEREAS the said Dr. Siler is asserting that such injury was due to the negligence of the persons operating said unit of vehicle at said time and place, feels aggrieved and desires to prosecute action to determine the question of liability, and recover damages on account of said injuries and loss;

NOW BE IT ENACTED by the General Assembly of the Commonwealth of Kentucky:

§ 1. That Dr. L. S. Siler of Whitley County, Kentucky, is hereby empowered to institute and maintain in the Laurel Circuit Court and the Kentucky Court of Appeals, on appeal, a common law action against the Commonwealth of Kentucky seeking to recover damages for personal injuries and property loss alleged to have been sustained by him on April 9, 1937 on account of collision between his automobile and a unit of vehicles owned by the Commonwealth of Kentucky and the State Highway Department of Kentucky, consisting of a



truck, roller carrier, road roller and another truck. Said action shall be governed by all the rules and regulations of procedure in effect in this Commonwealth applicable to and governing common law actions and either party may prosecute appeal and appeals to the Kentucky Court of Appeals under any and all such rules so governing common law procedure in this state.

§ 2. This action may be brought within one year following the passage of this act.

§ 3. Any judgment, if any, recovered, by plaintiff shall be paid by the Commonwealth out of the general funds of the state.

§ 4. The defense of said action shall be under the direction and control of the Attorney General and he is authorized to settle said claim, if in his judgment it should be settled and at such sum as he will authorize and such sum shall be paid, if settled, as above provided.

§ 5. Any and all acts and parts of acts and laws in conflict herewith are hereby repealed.

H. B. 18. An Act to amend Section 2554c-1 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

Ordered that said bill be printed and referred to Committee on Regulation of Intoxicating Liquors.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 2554c-1 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be amended by striking from subsection (b) of said section, the words "one percentum or more of alcohol by volume," and substituting therefor "more than 3.2 per centum of alcohol by weight," so that said section when so amended shall read as follows:

Sec. 2554c-1. As used in this Act the following terms,

unless the text otherwise indicates, shall have the following meanings respectively.

(a) "Local option territory" or "territory" means such county, city, town, district or precinct for which a petition shall be filed asking for an election to take the sense of the voters regarding the sale, barter and loan of intoxicating liquors as provided, and such governmental unit where a majority shall have voted in favor of prohibiting the sale, barter or loan of said liquors or the possession or transportation thereof.

(b) "Spirituous, vinous or malt liquors" means, respectively, intoxicating liquor. "Intoxicating liquor" means alcoholic brandy, whiskey, rum, gin, beer, ale, porter and wine and in addition thereto any spirituous, vinous, male or fermented liquors, liquids and compounds, whether medicated, proprietary, patented or not, and by whatever name called, containing more than 3.2 per centum of alcohol by weight which are fit for use for beverage purposes.

(c) The word "person" includes the singular and plural number, and shall mean and include a natural person, association, co-partnership or corporation.

(d) "Election" means an election to be held for the purpose of taking the sense of the people as to the prohibition or permission of the sale, barter or loan of spirituous, vinous or malt liquors in any territory.

(e) "Prohibition" means that the sale, barter, or loan of intoxicating liquors have been rendered unlawful under the terms of this Act.

(f) "Local Option Law" refers to the provisions of this Act.

H. B. 27. An Act relating to peace officers and prohibiting compensation of sheriffs, deputy sheriffs, constables, deputy constables, patrols and other peace officers and deputy peace officers by private persons, firms or corporations; providing for the removal of such officers so privately compen-

sated, and for the removal of sheriffs, constables and peace officers for neglect of duty in failing to remove deputies so privately compensated; providing for the appointment and compensation of special local peace officers; and providing penalties for the violation of this act.

Ordered that said bill be printed and referred to Committee on Kentucky Statutes No. 1.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. No sheriff, deputy sheriff, constable, deputy constable, patrol, or other peace officer or deputy peace officer shall receive any compensation or remuneration, directly or indirectly, from any person, firm or corporation, for the performance of any service or duty. Any sheriff, deputy sheriff, constable, deputy constable, patrol, or other peace officer, or deputy peace officer who shall receive any compensation or remuneration directly or indirectly from any person, firm or corporation for the performance of any service or duty shall be subject to removal from office, under the provisions of this act, insofar as the same may be done in conformity to the provisions of section two hundred twenty-seven of the constitution of this state.

The officers and deputies named in this section shall receive for the performance of their services and duties only such compensation or remuneration as may be regularly provided and paid out of the public funds to the amount and in the manner provided by law. Any donations made by any person, firm or corporation to any governmental unit or officer thereof shall not constitute public funds within the meaning of this section.

§ 2. No sheriff, deputy sheriff, constable, deputy constable, patrol or other peace officer, or deputy peace officer,

shall, while in office, act in any private employment as guard or watchman or in any other similar private employment.

§ 3. No sheriff, constable or other peace officer shall appoint or continue the appointment of any deputy contrary to the provisions of this act. Whenever it shall be made to appear by the affidavit of two citizens, taxpayers of the county, filed with any such sheriff, constable or other peace officer, that there is reasonable cause to believe that any of their deputies is, or are, receiving compensation from a private source or sources contrary to the provisions of this act, it shall be the duty of such sheriff, constable or other peace officer forthwith to investigate the charges contained in such affidavit, and upon finding such charges to be true, it shall be the duty of such sheriff, constable or other peace officer forthwith to remove any such deputy from office, and failure so to do shall constitute neglect of duty on the part of such sheriff, constable or other peace officer, and such sheriff, constable or other peace officer shall thereupon be subject to removal from office under the provisions of this act.

§ 4. Circuit Courts shall have jurisdiction to hear and determine all proceedings for the removal of officers and their deputies under the provisions of this act. All such proceedings shall be in equity, and the procedure shall be as follows: The commonwealth's attorney of the judicial district, the county attorney of the county in which such sheriff, deputy sheriff, constable, deputy constable, patrol or other peace officer or deputy peace officer shall be serving, the attorney general of the state, or any three or more citizens of said county may file a petition in equity setting up facts constituting a violation of the provisions of this act. A copy of such petition shall be served upon the person complained against who shall have ten days within which to answer the allegations thereof, if he shall desire to do so. Thereafter such proceedings shall be heard and determined by the court, either in term or in vacation, according to the ordinary rules governing proceedings in equity; provided that in every case the court or the

judge thereof in vacation shall render a final judgment therein within sixty days from the date of the filing of the petition; provided further, that the court or judge hearing the case may for good cause shown extend the time for the final hearing thereof, but in no case beyond ninety days from the date of the filing of the petition. Any such proceeding may be instituted and prosecuted either in the circuit court of the county in which such sheriff, deputy sheriff, constable, deputy constable, patrol or other peace officer or deputy peace officer is serving, or in the circuit court of Franklin county. Such proceedings, if instituted by the commonwealth's attorney, county attorney or attorney general of the state, shall be in the name of the commonwealth, and if instituted by three or more citizens of the county, as herein provided, shall be in the name of such citizens as plaintiffs. Whenever it shall appear upon final hearing upon any such petition that any such sheriff, constable or peace officer, is guilty of neglect of duty under the provisions of section three of this act, the court, upon ascertaining such fact, shall enter an order or judgment forthwith removing from office such sheriff, constable or peace officer. Whenever it shall appear upon final hearing upon any such petition that any such sheriff, constable or peace officer is receiving his compensation, or any part thereof, from private sources in violation of the provisions of section one hereof, or is acting in any private employment as guard or watchman or in any other similar private employment in violation of the provisions of section two hereof, then insofar as the same may be done in conformity to the provisions of section two hundred twenty-seven of the constitution of this state, the court, upon ascertaining such fact, shall enter an order forthwith removing such sheriff, constable, or other peace officer from office. Whenever it shall appear upon final hearing upon any such petition that any deputy sheriff, deputy constable, patrol or deputy peace officer is receiving his compensation or any part thereof from private sources in violation of the provisions of section one of this act, or is acting in any private employment



as guard or watchman, or in any other similar private employment, in violation of section two of this act, the court, upon ascertaining such fact, shall enter an order forthwith removing from office any such deputy sheriff, deputy constable, patrol or deputy peace officer.

§ 5. The provisions of this act shall be applicable to all deputy sheriffs, deputy constables and deputy peace officers for whatever purpose they may be appointed, whether regular or special deputies or otherwise.

§ 6. In addition to the proceeding in equity for the removal from office provided by this act, any sheriff, deputy sheriff, constable, deputy constable, patrol or other peace officer or deputy peace officer who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred dollars nor more than five thousand dollars, or confined in jail, not to exceed one year, or both, in the discretion of the jury.

§ 7. Any person, firm or corporation who shall directly or indirectly pay or contribute or cause to be paid or contributed any money or other thing of value to any sheriff, deputy sheriff, constable, deputy constable, patrol or other peace officer, or deputy peace officer, or to any governmental unit or officer thereof, either as a gift or donation or for the performance of any public duty or for the performance of private employment as guard or watchman or other similar private employment, except as provided in the next succeeding section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred dollars nor more than five thousand dollars.

§ 7½. Nothing in this Act shall prevent the Governor from appointing a special local peace officer, and he is hereby authorized to appoint such local peace officer to preserve the peace, patrol, protect and preserve the property of any person or corporation, for such time as the Governor deems necessary, from waste or destruction. Upon the application of

the owner of such property for such services, and upon the recommendation of the owner of the property, the Governor will appoint immediately the person so recommended by the owner of the property to be protected. Any person so appointed by the Governor shall have all the qualifications now or hereafter prescribed by law for non-elective peace officers and no person shall be eligible for appointment under this section until he has established to the satisfaction of the Governor that he possesses such qualifications. His authorized duties will be confined to the premises of the ownership of the property to be protected, except while in pursuit of someone fleeing from such place after committing some act of violence or destruction of said property. In that case, he will have the authority to pursue such fugitive and make arrest anywhere in the confines of the State of Kentucky. When special services of this kind are requested by any owner, the Governor shall require the owner to pay into the State treasury an amount to equal such cost of said special peace officer, and the salary of said officer shall be paid direct out of the State Treasury by order of the Governor.

The Governor may remove any person so employed at will or upon the request of the owner of the property.

§ 8. In case any part, section, clause, sentence, phrase, word or application of this act shall be for any reason declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not affect the remaining portion of this act which shall remain in force as if such act had been passed without the unconstitutional or invalid part, section, clause, sentence, phrase, word or application having been incorporated herein; it being the legislative intent that this act would have been passed in the language remaining after the elimination of so much hereof as may be declared unconstitutional or invalid.

§ 9. All laws or parts of laws in conflict or inconsistent with the provisions of this act are hereby repealed; provided nothing in this Act shall be construed to amend or repeal sec-

tions 3766a-6 to 3766a-13, inclusive, sections 779a-1 to 779a-8, inclusive, of Carroll's Kentucky Statutes, 1936 edition.

H. Res. 4. A resolution providing for the purchase of "The Legislative Digest" adopted at the regular session of the Legislature of 1912 and each succeeding session since that date as the official publication for the General Assembly, providing for the distribution thereof and for payment therefor.

Ordered that said resolution be printed and referred to Committee on Appropriations.

Said resolution is as follows, viz.:

WHEREAS, it is a matter of importance and convenience that each Representative and each Senator be advised as to the various and detailed steps of legislation; and,

WHEREAS, the General Assembly for each of the past sessions since 1912 has approved and adopted as its official publication "The Legislative Digest", published under the management of competent and experienced persons, the purpose of which is to fully advise from day to day the officials and public of the Commonwealth as to matters affecting them in an intelligent and prompt manner; now, therefore,

*Be it Resolved by the House of Representatives of the Commonwealth of Kentucky, and the Senate of the Commonwealth of Kentucky concurring, that:*

ONE. The State Journal Company hereby is authorized, requested and directed to furnish two hundred (200) copies of "The Legislative Digest" daily for delivery and distribution as hereinafter provided. The State Journal Company will be paid the sum of Two Thousand (\$2,000.00) Dollars for furnishing two hundred copies of "The Legislative Digest" daily as provided in this Resolution, which amount hereby is fixed, determined, approved and allowed as a contingent expense of the 1938 Regular Session of the General Assembly

of Kentucky. Said amount will be paid on or before March 15th, 1938, out of the appropriation heretofore made for the cost, salaries and expenses of the General Assembly. The State Journal Company will present to the Speaker of the House and to the President of the Senate its bill for \$2,000.00, and the Speaker of the House and the President of the Senate hereby are authorized and directed to approve said bill for payment out of the appropriation hereinabove referred to; and when said bill is so approved, it shall be approved for payment by the Department of Finance; and, the Auditor of Public Accounts shall issue his warrant upon the State Treasurer in payment thereof, and the State Treasurer shall issue and deliver a check upon the State Treasury for the payment thereof.

TWO. The State Journal Company hereby is directed to furnish and deliver daily to the Clerk of the House one hundred and ten (110) copies of "The Legislative Digest" for distribution to the Members of the House and to such officers of the House as the Speaker may direct; to furnish and deliver daily to the Clerk of the Senate forty-five (45) copies of "The Legislative Digest" for distribution to the Members of the Senate and to such officers of the Senate as the President of the Senate may direct; and, to furnish and deliver daily the remaining forty-five (45) copies of "The Legislative Digest" to the Governor of the Commonwealth of Kentucky and to such Departments, officers and employees of the Commonwealth as the Governor of the Commonwealth, the President of the Senate and the Speaker of the House may direct. The Speaker of the House, the President of the Senate and the Governor of the Commonwealth hereby are requested to furnish to the State Journal Company a list of the Departments, officers and employees to whom said copies are to be furnished as hereinabove provided.

The word "daily" as hereinabove used shall be construed to mean each day that the House or Senate is in session.

THREE. "The Legislative Digest" hereby is adopted



and approved as the official publication of the General Assembly of Kentucky.

FOUR. The Clerk of the House of Representatives, on the passage of this Resolution and the concurrence therein by the Senate, hereby is directed to furnish and deliver to the Department of Finance and to the Auditor of Public Accounts an attested or certified copy of this Resolution; and the amount hereinabove provided to be paid shall be noted and entered on the books of the Department of Finance and the books of the Auditor of Public Accounts as a charge against the appropriation hereinabove referred to.

H. Res. 11. Resolution authorizing the personal representative or representatives of W. H. Hyden, deceased, to sue the Commonwealth of Kentucky.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

Said resolution is as follows, viz.:

Whereas, W. H. Hyden, of Estill County, Kentucky, died March 7, 1936, as the result of injuries received in Pike County, Kentucky, in the employ of the Commonwealth of Kentucky, in its Reforestry Department, allegedly as the result of the negligence of one or more of the other servants, employees or officials of the Commonwealth, therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the personal representative or representatives of W. H. Hyden, deceased, be and they are hereby authorized to sue the Commonwealth of Kentucky in the Circuit Court for either Estill or Pike or Franklin Counties, as the plaintiff or plaintiffs may elect, for the damages to his estate from the negligence, if any, of any one or more either of the employees or agents or servants or officials of the Commonwealth of



Kentucky, hereby waiving the Commonwealth's immunity from liability for such negligence, if any; that the Attorney General may in his discretion compromise such suit; that from any judgment either party may appeal to the Court of Appeals; that any recovery by said estate shall be paid by the State Treasurer of Kentucky, out of the general fund, upon the warrant of the Auditor of Public Accounts of Kentucky.

H. Res. 3. Resolution authorizing L. V. Stone to sue the Commonwealth of Kentucky.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

Said resolution is as follows, viz.:

WHEREAS, On August 17, 1937, Clint Lisle, of Henderson, Ky., an employee of the State Highway Commission of Kentucky, was operating a truck belonging to or in the service of said Highway Commission of Kentucky, in Henderson County, Ky.; and,

WHEREAS, It is claimed by the said L. V. Stone that said Lisle did on said date back said truck without any warning, and in a careless and reckless manner into the side of one Plymouth coupe, owned by said L. V. Stone, and but for the negligent operation of said truck by said Lisle said accident would not have happened; and,

WHEREAS, It is claimed by L. V. Stone, that because of the negligent and careless operation of said truck his car was damaged in the sum of \$250.00 and that it actually cost said Stone the sum of \$87.00 to patch up said car, and in all the damages to said car was \$250.00 and if such damages by said truck was sustained the same should be paid by the Commonwealth of Kentucky: Therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That L. V. Stone, be and he is hereby authorized and per-

mitted to sue the Commonwealth of Kentucky and the State Highway Commission of Kentucky, in Henderson Circuit Court of Henderson County, Kentucky, or either of them in said Court for such damages he has suffered by reason of such accident and collision not to exceed the sum of \$250.00 and in event a judgment is recovered or a settlement made, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the General Fund.

H. Res. 23. Concurrent Resolution memorializing Congress of the United States to speedily enact effective Tobacco Control legislation to insure parity prices for Tobacco Growers.

Ordered that said resolution be printed and referred to Committee on Executive Affairs and Federal Relations.

Said resolution is as follows, viz.:

WHEREAS, Kentucky is one of the great agricultural states of the Union, and the growing of tobacco is one of the major occupations of its people, and any injury to said occupation is calculated to strike at the very vitals of the economic life of the state and,

WHEREAS, there has existed for the past several weeks, and there exists now, a wide spread and general feeling of alarm and despair by the tobacco growers and the general public, because of the extremely low prices being paid for tobacco on the markets of the state, and

WHEREAS, during the past week the greater portion of the tobacco sold on such markets has been sold at a below-production-costs, and

WHEREAS, such aforementioned conditions has and is causing a serious economic impairment of the various communities of our state, thereby bringing deprivation and misery and despair to the peoples of our state, and

WHEREAS, the said conditions in the tobacco growing districts in Kentucky have become so acute and desperate as to warrant serious consideration and swift action, and

WHEREAS, the Kentucky General Assembly, in special session, passed a tobacco compact bill, thus proving its sincerity in a desire for an effective tobacco control program, even though this effort prove unsuccessful because of the failure to secure similar and coordinated action from the several tobacco growing states, thus exhausting state action and making federal action essential; therefore

*Be it Resolved by the House of Representatives of the Commonwealth of Kentucky, the Senate concurring therein:*

§ 1. That the aforementioned facts and conditions be brought to the attention of the Congress of the United States, and hereby memorialize said body to speedily enact effective tobacco control legislation that will insure parity prices to tobacco growers.

§ 2. Be it further resolved, that a copy of this resolution, signed by the Governor, the Speaker of the House and President of the Senate, attested by the Clerk of each, be mailed to the President of the United States, and the respective members of the Congress of the United States.

## REPORT OF COMMITTEE ON ENROLLMENT

Senator Dawson of the Committee on Enrollment reported that said Committee had examined and found to be correctly enrolled a bill of the following title, viz.:

H. B. 1. An Act appropriating money for the operation, maintenance, support, and functionings of the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government of the Commonwealth of Kentucky, and the purchase of record books, as provided by Section 388 Kentucky Statutes, 1936 Edition, Judiciary and Court Costs, Confederate Pensions, Frankfort Cemetery, Jefferson

and Kenton County Fees and defraying the expenses of any and all other State obligations for the fiscal years ending June 30, 1939, and June 30, 1940, designating the sources and funds from which said appropriations are to be made, describing the manner in which the same are to be paid, providing for the payment into the State Treasury of all fees and other miscellaneous receipts collected by all the different officers, departments, boards, commissions, institutions, and subdivisions of the State Government, which include all the different agencies of the State, providing for the establishment of certain revolving funds specifically mentioned, providing for money refund, authorizing and empowering the Governor of the Commonwealth to equitably reduce, or adjust the appropriations made to officers, departments, boards, commissions, institutions, and subdivisions of the State and all other agencies specifically mentioned therein and authorizing the State Budget Officer with the approval of the Commissioner of Finance to make allotments and/or re-allotment from appropriations made to the various officers, departments, boards, commissions, institutions, and subdivisions of the State Government and other agencies, and authorizing transfers from allowances for one budget class to allowances in another budget class within the same budget unit, when approved by the Commissioner of Finance providing that certain appropriations shall be limited to specific purposes, barring the use of appropriations for certain purposes, and repealing all blanket and continuing appropriations not provided for in this Act, and all appropriations made by any previous act, or acts of the General Assembly of the Commonwealth of Kentucky and repealing all laws or parts of laws in conflict with any of the provisions therein and enacting each section and each subsection as a separate or specific appropriation.

Whereupon, all other business was suspended and said bill was read at length and compared in open session and found to be correctly enrolled; and, thereupon, the President

of the Senate, in open session, and in the presence of the Senate, affixed his signature thereto.

Ordered that the Enrolling Clerk of the Senate deliver said bill to the Enrolling Clerk of the House.

### INTRODUCTION OF BILLS

Bills and a resolution of the following titles were introduced, ordered printed and referred as follows, viz.:

By Senator Attkisson.

S. B. 72. An Act to amend Section 733 of the Kentucky Statutes, Carroll's Edition of the year 1930, relating to the investment of the capital stock and accumulations of real estate title insurance companies, to authorize such companies to invest in such securities as domestic insurance companies (other than life) are authorized by law to invest their capital, surplus, and accumulations in, and to enter into agreements to protect the interest of such companies in securities lawfully held by them, to foreclose on property pledged to them, to participate in the reorganization of any corporation whose securities they held, and to accept and retain securities distributed pursuant to a plan of reorganization of any such corporation, to the same extent as domestic insurance companies (other than life) are authorized by law to do.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 733 of the Kentucky Statutes, Carroll's edition of the year 1930, being Section 9 of Chapter 99 of the Acts of the General Assembly of the year 1894, as amended by Chapter 117 of the Acts of the General Assembly of the year 1902, and as further amended by Chapter 19 of the Acts of the General Assembly of the year 1926, be, and the same



hereby is, amended and reenacted, so that said section, as amended and reenacted, shall read as follows:

“The capital stock, not exceeding thirty-three and one-third per centum of the minimum amount thereof, of any such corporation organized under this law, or now doing business in this state, may be invested in the acquisition of such books, maps, abstracts, or copies of deeds and other instruments as shall be necessary or convenient for the transaction of its business; and such portions of its accumulations as shall be necessary or convenient may be used in maintenance, enlargement, and improvement of such plant. The remainder of such stock and accumulation shall be invested, except as hereinafter provided, in bonds and mortgages, lien notes or deeds of trust, on unencumbered real estate within the State of Kentucky, or any other State in the United States, worth at least thirty-three and one-third per centum more than the sum loaned thereon, but in estimating the value of such real estate, the value of the buildings thereon shall be continued in force as long as the loan continues; *also in such bonds, notes, warrants, debentures, equipment securities, and other evidences of indebtedness, and in such preferred and common stocks, and warrants evidencing the right to subscribe therefor, as domestic insurance companies (other than life) are authorized by the laws of this Commonwealth to invest their capital, surplus and accumulations in; also to enter into agreements for the purpose of protecting the interest of such real estate title insurance corporation in securities lawfully held by it, to foreclose on property lawfully mortgaged or pledged to it, to participate in the reorganization of any corporation whose securities are lawfully held by it, and to accept and retain any securities distributed pursuant to a plan for the reorganization of any such corporation, to the same extent as domestic insurance companies (other than life) are authorized to do under the laws of this Commonwealth; and to subscribe for, acquire and hold stock in any corporation or corporations engaging in the business of title insurance or taking*

mortgages on real estate or any business of a similar or kindred nature, provided that such stock be acquired and paid for out of any surplus or accumulations belonging to any corporation organized under this act, but no part of its capital stock shall be used for such purpose.

“Said capital and surplus may be invested in or loaned on the security of such bonds, stocks, lien notes, mortgages or debenture bonds, secured by and representing the beneficial interest in any such bonds, stocks, lien notes or mortgages, and the investments or loans herein authorized may be changed and the proceeds reinvested as occasion may from time to time require and the evidences of such investments or loans may be sold and the payment thereof endorsed or guaranteed.

“No such corporation shall own more than one-sixth of the capital of any bank or corporation, except as otherwise provided herein; nor invest in nor loan on the stock and bonds, both included, of any one railroad, more than one-tenth of its capital and accumulated funds, nor in the aggregate shall the investment in and loan on all railroad property exceed one-fifth of its capital and accumulated funds; and no such corporation chartered by this State, and lawfully doing business herein authorized, shall be compelled to change any investment heretofore legally made. Provided, however, that no corporation organized under this subdivision and having a paid-in capital stock and surplus of less than five hundred thousand dollars, shall invest any part of such stock or accumulation in bonds, mortgages, lien notes or deeds of trust on real estate without the State of Kentucky.”

To Committee on Insurance.

By Senator Dawson.

S. B. 73. An Act to provide for the incorporation and regulation of non-profit hospital service corporations.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. This Act shall be known and may be cited as "The Non-Profit Hospital Service Plan Act."

§ 2. Subject to the provisions of this Act, the Secretary of State of Kentucky may issue certificates of incorporation (not for profit) to persons desiring to form a non-profit hospital service corporation.

§ 3. Any corporation organized under the provisions of this Act for the purpose of establishing, maintaining and operating a non-profit Hospital Service Plan, whereby Hospital service may be provided by the said corporation or hospital with which it has a contract for such care, which hospital shall be one which is maintained by the State, or by any of its political subdivisions, or maintained by a corporation organized for hospital purposes under the laws of this State, to those persons who become subscribers to said plan under a contract which entitles each subscriber to certain hospital care, shall be governed by this Act, and shall be exempt from all provisions of the Insurance Code of this State, not otherwise specifically designated herein, and no amendments to said code or to this Act shall apply to them unless they be expressly designated therein.

§ 4. Persons desiring to form a non-profit hospital service corporation shall incorporate under the provisions of this Act, and according to the method and in the manner prescribed by Sections 879, 880, 881, 882 and 883 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition. The articles of incorporation of every non-profit hospital service corporation shall be presented to the Commissioner of Insurance for approval by them before the same shall be filed either in the office of the Secretary of State, or recorded in the County Clerk's office of the County where the principal place of business of the corporation is located. No such corporation shall

begin business under this act until it shall have filed with the Commissioner of Insurance a bond in the sum of \$5000.00 with corporate surety—conditioned that it will faithfully comply with its contracts for hospital service such bond shall be maintained during the corporate life of such corporation.

§ 5. Any corporation subject to the provisions of this Act may enter into contracts for the rendering of hospital service to any of its subscribers only with hospital maintained by the State or any of its political subdivisions, or maintained by a corporation organized for hospital purposes under the Laws of this State.

The rates charged by such corporation to the subscriber for hospital service shall, at all times, be subject to the approval of Commissioner of Insurance of the State of Kentucky.

§ 6. Every such corporation shall, annually, on or before the first day of March, file in the office of the Commissioner of Insurance a statement verified by at least two of the principal officers of said corporation, showing its condition on the 31st day of December then next preceding, which shall be in such form and shall contain such matters as the Commissioner shall prescribe.

§ 7. The Commissioner of Insurance, or any other person whom he shall designate, shall have the power of visitation and examination into the affairs of any such corporation, and shall have free access to all of the books, papers and documents that relate to the business of the corporation, and may summon and qualify witnesses under oath to examine its officers, agents or employees, or other persons in relation to the affairs, transactions and condition of corporation.

§ 8. All costs in connection with the solicitation of subscribers to such hospital service plan shall, at all times be subject to the approval of the Commissioner of Insurance.

§ 9. The funds of any corporation subject to the provisions of this Act shall be invested only in securities permitted by law of this State for the investment of assets of life insurance companies.

§ 10. Any dissolution or liquidation of a corporation, subject to the provisions of this Act, shall be in accordance with Sections 628, 744, 752, 753 and 754 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

To Committee on Public Health.

By Senator Wise.

S. Res. 21. A Resolution authorizing Ethel Carr, a married woman, to sue the Jefferson County Fiscal Court and/or Jefferson County, Kentucky.

Said resolution is as follows, viz.:

WHEREAS, on the 24th day of November, 1934, the Jefferson County Fiscal Court and/or Jefferson County, Kentucky, was engaged in Jefferson County, Kentucky, in transporting certain County employees in a 1933 Chevrolet truck, license number T 5216 (1934) on the Shelbyville Road, two miles east of Middletown, Kentucky, at English Station; and

WHEREAS, it is alleged that the truck, driven by one Ed Fey, a Jefferson County employee, was negligently operated on said road; and

WHEREAS, Ethel Carr, a passenger in an automobile driven by her brother-in-law, Virgil Goff, was injured severely and critically, when said truck owned by the Jefferson County Fiscal Court and/or Jefferson County collided with the automobile in which she was riding;

NOW in order to determine by judicial action the question of negligence causing said injuries aforesaid;



*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Ethel Carr in her own right and name be and she is hereby authorized to file and prosecute an appropriate action against the Jefferson County Fiscal Court and/or Jefferson County for the purpose of determining the liability of the Jefferson County Fiscal Court and/or Jefferson County and such injuries, if any there be, in any sum not to exceed Three Thousand (\$3,000.00) Dollars.

§ 2. Such action may be brought in any Circuit Court of the Commonwealth of Kentucky which may have jurisdiction of the subject matter or may be joined with any action or actions pending, wherein Circuit Courts have competent jurisdiction of the subject matter and parties.

#### To Committee on Kentucky Statutes No. 1.

In accordance with a motion previously made and agreed to, the President of the Senate announced that the Senate would now resolve itself into a Committee on the Whole Senate for the purpose of considering a bill of the following title, viz.:

H. B. 54. An Act creating the Thirty-eighth Judicial District of Kentucky, fixing the time of holding courts thereof; changing the Sixth, Seventh and Eighth Judicial Districts as is necessary by the creation of the Thirty-eighth Judicial District, and fixing the time of holding courts thereof; providing for the appointment and election of a Circuit Judge and a Commonwealth's Attorney for the Thirty-eighth Judicial District; providing for present Circuit Judges of the Sixth, Seventh and Eighth Judicial Districts to continue for the term for which elected; and declaring an emergency to exist.

Whereupon, the President of the Senate vacated the

Chair which was occupied by Senator Dawson, President Pro Tem of the Senate, who presided.

After a time, the President of the Senate resumed the Chair and Senator Dawson, President Pro Tem of the Senate and Chairman of the Committee of the Whole Senate which had had under consideration a bill entitled, viz.:

H. B. 54. (For title see S. J. of today, ante.)

Reported progress.

Senator Rogers moved that a leave of absence be granted to all absent Senators.

Said motion was agreed to.

### CALENDAR

The Senate took up for consideration from the Calendar a bill of the following title, viz.:

H. B. 54. (For title see S. J. of today, ante.)

Senator Gilbert moved that the second reading at length of said bill be dispensed with and same be read the second time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the second reading at length of said bill having been dispensed with, said bill was read the second time by its title only and ordered placed in the Orders of the Day.

Senator Gilbert moved that the Senate do now adjourn to meet again at ten o'clock, a. m., Thursday, January 20th.

Said motion was agreed to.

And then the Senate adjourned.

The Honorable Keen Johnson, President of the Senate and Lieutenant Governor of the Commonwealth, being in the Chair, Senator Gilbert moved that the vote by which the Senate agreed to adjourn until ten o'clock, a. m., Thursday, January 20th, 1938, be reconsidered.

Said motion was agreed to, by more than twenty members.

Thereafter such reconsideration.

Senator Ray B. Moss raised the point of order that the roll of the Senate had not been called.

The President of the Senate ruled that the point of order as raised by Senator Moss was well taken.

Thereupon the roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	Ralph Gilbert	Ira W. See
Aubrey Barbour	John M. Hall	Paul L. Sidebottom
Paul M. Basham	J. W. McDonald	Ervine Turner
H. Stanley Blake	Strother Melton	Thomas O. Turner
Ollie J. Bowen	E. C. Moore	E. T. Wesley
Leer Buckley	J. Lee Moore	Otis White
Edwin C. Dawson	Dr. R. C. Moss	B. M. Williams
W. C. Farmer	Ray B. Moss	J. E. Wise
Lee Gibson	James C. Rogers	

It being noted that a quorum was present, Senator Gilbert again moved that the vote by which the Senate agreed to ad-

journal until ten o'clock, a. m., Thursday, January 20th, 1938, be reconsidered.

Said motion was agreed to, by more than twenty members.

Thereafter such reconsideration.

Senator Gilbert moved that the rules be suspended for the purpose of allowing committees to report.

Said motion was agreed to by a majority of the members elected.

Thereupon, Senator T. O. Turner of the Committee on Kentucky Statutes No. 1 to which same had been previously referred, reported a bill of the following title, viz.:

H. B. 27. (For title see S. J. today, ante.)

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and ordered placed in the Calendar.

Senator Gilbert moved that the Senate do now adjourn to meet again at ten o'clock, a. m., Thursday, January 20th, 1938.

Said motion was agreed to.

And then the Senate adjourned.

## THURSDAY, JANUARY 20, 1938.

The Senate convened and was called to order by the Honorable Keen Johnson, President of the Senate and Lieutenant Governor of the Commonwealth.

The Senate was opened with prayer by the Reverend John T. Galloway, pastor of the First Presbyterian Church of Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	John M. Hall	John A. Sugg, Jr.
Aubrey Barbour	J. Joseph Hettinger	Jos. P. Tackett
Paul M. Basham	Wm. H. Jones, Jr.	Ervine Turner
H. Stanley Blake	Stanley B. Mayer	Thomas O. Turner
Ollie J. Bowen	Strother Melton	E. T. Wesley
Leer Buckley	E. C. Moore	Otis White
Dr. D. H. Bush	J. Lee Moore	O. C. Whitfield
Waller A. Crockett	Dr. R. C. Moss	B. M. Williams
Edwin C. Dawson	Ray B. Moss	J. E. Wise
W. C. Farmer	James C. Rogers	J. M. Wolfenbarger
Lee Gibson	Ira W. See	
Ralph Gilbert	Paul L. Sidebottom	

Senator Dawson moved that the Journal of the proceedings of Tuesday, January 18th, 1938, be read at length.

Said motion was agreed to.

Whereupon, the Journal of the proceedings of the Senate of the day and date aforesaid was read at length by the Chief Clerk of the Senate.

Senator Dawson moved that the Journal aforesaid be now approved.

Said motion was agreed to.



Senator E. C. Moore moved that the rules be suspended and the privilege of the floor be extended to Mr. William Watkins of Liberty, Kentucky.

Said motion was unanimously agreed to.

Senator Tackett moved that the rules be suspended and the privilege of the floor be extended to Mr. R. L. Ponton of Wylliesburg, Virginia, and Mrs. Joe Ponton of Belfrey, Kentucky.

Said motion was unanimously agreed to.

Senator Buckley moved that the rules be suspended and the privilege of the floor be granted to his nephew, Master Benjamin F. Buckley, III, of Lexington, Kentucky.

Said motion was unanimously agreed to.

Senator Ray B. Moss moved that the rules be suspended and the privilege of the floor be extended to Mr. Clarence Bartlett and Mr. J. W. Kirk of Hartford, Kentucky.

Said motion was unanimously agreed to.

Senator Dawson moved that the rules be suspended and the privilege of the floor be extended to the Honorable Robert Humphreys, Commissioner of Highway of the Commonwealth of Kentucky, former Senator Clarence Nickell and Mr. Martin Walker.

Said motion was unanimously agreed to.

Senator Wolfinbarger moved that the rules be suspended and the privilege of the floor be extended to Mr. Benton Fielder of Berea, Kentucky, and Messrs. Harlan Beatty, Sam B. Taylor and Sedley Stewart of Beattyville, Kentucky.

Said motion was unanimously agreed to.

Senator Ervine Turner moved that the rules be suspended and the privilege of the floor be extended to Mr. Earl Murphy and former Representative Currin Nickell of West Liberty, Kentucky.

Said motion was unanimously agreed to.

Senator Ray B. Moss moved that the rules be suspended and the privilege of the floor be extended to Mr. Charles Wylie, a former member of the House of Representatives.

Said motion was unanimously agreed to.

Senator Tackett moved that the rules be suspended and the privilege of the floor be extended to Mr. B. F. Combs of Prestonsburg, Kentucky, Mr. Bill Smith of Hindman, Kentucky, and Miss Betty Joe Harrison, a former Page of the Senate.

Said motion was unanimously agreed to.

Noting their presence in the Gallery, Senator Wise introduced Professor R. C. Gibson and the following members of his class in Public Speaking to the members of the Senate, viz.: Messrs. Harold Wise, Millard Brown, Kenneth Brown, Misses Gussie Frymin, Louise Miller and Hallie Rose Mills, all of Meade County, Kentucky.

Without objection leaves of absence for the next legislative day were granted to Senators Basham, Jones and Sidebottom.

Senator Rogers moved that leaves of absence be granted to all Senators absent this day.

Said motion was agreed to.

Senator Ervine Turner moved that the rules be suspended and the privilege of the floor be extended to Mrs. Campbell Cantrill, former State Librarian.

Said motion was unanimously agreed to.

Senator Tackett moved that the rules be suspended and the privilege of the floor be extended to Messrs. Joseph D. Harkins, Sr., and Joseph D. Harkins, Jr., of Prestonsburg, Kentucky.

Said motion was unanimously agreed to.

The Chief Clerk of the Senate laid before the Senate a petition signed by one hundred and sixty-eight of the legal voters of the city of Harrodsburg, Kentucky, requesting the retention of the Local Option Law as it now exists.

### INTRODUCTION OF BILLS

Bills and resolutions of the following titles were introduced, ordered printed and referred as follows, viz.:

By Senator White.

S. B. 74. An Act to amend Section 2118 of Kentucky Statutes, 1936 Revision, relating to the granting of divorce.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That section 2118 of Carroll's Kentucky Statutes be amended and when so amended shall read as follows:

Section 2118. Divorced persons may marry; only one divorce granted, exception—A judgment of divorce author-

izes either party to marry again, *but there shall not be granted to any person more than one divorce, except for living in adultery, to the party not in fault, and for the causes, for which a divorce may be granted to both husband and wife.*

To Committee on Courts and Legal Procedure.

By Senator White.

S. B. 75. An Act relating to fees of County Judges, for services rendered in quarterly courts, amending Section 1732 of Carroll's Kentucky Statutes, 1936 Revision.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That section 1732 of Kentucky Statutes, 1936 revision, be repealed, amended, and re-enacted and when so amended and re-enacted shall read as follows:

Section 1732. County judges, fees that may be charged by,—County judges for all services rendered in quarterly courts, so far as same shall apply when the jurisdiction is concurrent with the circuit courts, shall be entitled to charge and receive the same fees allowed by law to clerks of circuit courts for similar services. In all cases or proceedings in said courts where the amount in controversy, exclusive of interest and costs, is fifty dollars (\$50.00) or under and for certain other services rendered in the performance of other official duties hereinafter specified, the fees of county judges, so far as same apply shall be: For issuing each summons or warrants not hereinafter provided for, each order of attachment, order of injunction, order of delivery or super-sedeas ..... \$0.25  
For each copy thereof ..... .15  
For entering return thereon ..... .10  
For each subpoena for a witness or witnesses ..... .20

For each attachment of a witness or witnesses .....	.25
For each original judgment .....	.25
For recording same .....	.25
For each execution .....	.25
For each copy of a judgment, or execution when ordered .....	.25
For each affidavit to procure an attachment, warrant of arrest in a civil case, order of delivery, or to prove a demand against a decedent's estate, if the county judge prepares the affidavit .....	.25
For each distress warrant for rent .....	.25
For taking each recognizance .....	.25
For swearing a person and giving a certificate thereof ...	.25
For each order of arrest in a civil case .....	.25
For each copy thereof .....	.15
For filing a claim or appeal or any paper or pleading in a case each .....	.10
For docketing a case at each term .....	.05
For endorsing steps at each term .....	.05
For indexing each name of a party to an action, pro- ceeding or execution, to be charged once in each case .....	.05
For entering or noting of record in an order book each order or direction of the court, for an order filing any pleading or other paper, each motion, demurrer, deposition thereof or ruling of the court or any other step taken, each .....	.20
For taking each bond provided or required by law in a civil case .....	.25
For each copy .....	.10
For each writ of forcible entry and detainer .....	.50
For presiding at and superintending trial of writ of forcible entry and detainer per day.....	1.50
For certifying copy of judgment and amount of costs on appeal .....	.25



For taxing costs of each party or parties at each term when judgment for costs is rendered, or on final judgment .....	.10
For entering each witness, attendance and giving certificates thereof in a civil case.....	.15
For each trial by jury, including all services incident thereto in a civil case .....	.60
For entering and giving a post notice of an estray, waif-boat, water-craft or wreck .....	.25
For order causing bulls, studs or jacks, running at large to be altered .....	.25
For order commanding owner of distempered cattle to confine them .....	.25
For a copy of record certified, for each twenty words.....	.02
For holding inquest when coroner can not attend, a county judge shall receive the same fees allowed a coroner.	
For settling accounts of fiduciaries .....	1.50
The fees herein-above provided shall apply to civil cases only and to county judges only.	

*That the judges of the various quarterly courts of the commonwealth shall collect the sum of two dollars (\$2.50) 50/100 dollars on each original action or suit, commencing with the original process in their respective courts. Said sum to be collected when such action or suit is filed and after cost of serving the processes is paid to sheriff or persons serving same balance to be applied as credit on cost due said judge, and shall not effect their fees now prescribed by law.*

To Committee on Kentucky Statutes No. 1.

By Senator Attkisson.

S. B. 76. An Act to repeal Chapter 95, being Section 3780 to 3786, both inclusive, of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, and enacting in lieu thereof an Act

relating to County patrols or county police forces, the appointment, jurisdiction, organization, equipment, maintenance, operation thereof and concerning the rights, powers and duties of county and fiscal courts, which Act shall be designated as Sections 3780, 3781 and 3782 of the Kentucky Statutes.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Chapter 95 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being Sections 3780, 3781, 3782, 3783, 3784, 3785 and 3786 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same are hereby repealed, and that in lieu thereof there be re-enacted Chapter 95 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, and to be known as Sections 3780, 3781 and 3782 of the Kentucky Statutes, so that when the same is amended and re-enacted that said chapter and section as amended and re-enacted shall read as follows:

Section 3780. *County courts to appoint; jurisdiction of county police.*—The county courts of the respective counties shall have and are hereby given the power, jurisdiction and authority to establish, appoint and maintain a county police force within their respective counties, all of the members and officers of which shall have and are hereby given jurisdiction co-extensive with the whole county for which they are appointed. Such police force may consist of a chief and such number, rank and grade subordinate to the chief and captains as the county court shall deem proper. All of the members of such county police force shall be appointed by the county judge and shall serve at the pleasure of the judge of the county court of their county. None but discreet and sober persons shall be appointed to any position on said county police force. Each of the members of said county police force shall take an oath before the judge of the county court of their

county, to faithfully, impartially and diligently perform the duties of their respective offices. Provided, however, that the chief officer of the county police force of any county may be designated, in the discretion of the county court of said county, as captain or any other appropriate title, and such county police force in any county may consist of one or more commanding officers, not exceeding four as hereinabove provided for, as the county court of such county may deem proper or adequate.

Section 3781. *Rules and Regulations, Groups, Divisions, Sub-divisions, Appointment, Promotions, Transfers, Removals, Suspension, Reinstatement, Fines and Discipline Standardization and Classification; Rights and Powers of Fiscal Courts.*—The county court shall have and is hereby granted the power to make, promulgate and amend rules and regulations for the appointment, promotion, transfer, laying-off, suspension, reinstatement, fine and removal of the personnel of the said county police force, the number of hours of each day, week or month the officers and members shall be on duty, and for the standardization and classification of all of the members of said force into groups, and divisions, or sub-divisions and for the organization, equipment and maintenance of said police force, subject to the rights of the fiscal court of the respective counties to fix salaries and compensation of all of the officers and employees of said police department, provided, however, that no fees shall be allowed or paid to said officers or employees.

Section 3782. *Compensation; Establishment and Maintenance of County Police Force, Powers, Salaries and Duties; Bonds.*—The fiscal courts of the respective counties shall fix the salaries or compensation of the chief, captain and patrolmen appointed by the county judge in accordance with the provisions of the Kentucky Statutes, Section 3780, provided, however, that no patrolman shall be paid more than \$1800.00 per annum, no captain shall be paid more than \$2100.00 per annum; and no chief shall be paid more than \$2400.00

per annum, which salaries or compensation shall be payable in equal monthly installments out of the county levy and further, provided, that no fees or other compensation shall be paid or allowed to any of the officers or members of said county police force. The chief of police, the captains of police and patrolmen shall be appointed by the county judge and shall serve in such capacities during the pleasure of the county court. All members of the county police force shall be citizens of the United States and shall have been bona fide residents of the county in which they are appointed for not less than one year before their appointment, and shall not be less than twenty-one years of age. The fiscal court shall, by order, fix the amount of the salary within the limitations herein provided and may within their discretion provide for motor vehicles, stations, sub-stations, places of detention, telephone, wireless, radio or other means of communication within their discretion and make appropriate levy and appropriations therefor, and may also, with the approval of the judge of the county court, direct the amount of bond to be required of each member of said county police force and may, in their discretion, provide for the payment of premiums on said bonds out of the funds appropriated for said county police force.

The said chief, captains and patrolmen are hereby declared to be peace officers and conservators of the public peace whose duties are to conserve the peace, enforce all laws and preserve order and shall have and are hereby given the same right and the same power to arrest, search and seize as is now given by law to sheriffs of this Commonwealth, and they shall be at all times subject to the orders of the county court. Provided, however, that the members of said county police force shall not have power to serve subpoenas, summonses and notices in civil cases.

To Committee on Kentucky Statutes No. 1.

By Senator Attkisson.

S. B. 77. An Act to enable any county of this Commonwealth, through its fiscal court, or any municipality, city, town or other voting district, through its legislative body or department to separately or jointly purchase, rent or lease voting machines to be used in any or all elections or primary elections; defining and establishing the requirements of said voting machines, the printing of official sample ballots, number of official ballots, to be furnished, requiring instructions of voters in use of machine before elections, requiring extra ballots in case of loss or theft, providing for emergency if machine is out of order, the method of conducting the election, the location of the voting machine during elections, the time allowed a voter to vote, instructing voters on election day, providing for blind or physically disabled voters, providing for announcing the vote at close of election, and locking the machines, and where the irregular ballots are to be returned, providing the disposition of keys, making the possession of keys to a voting machine by an unauthorized person a crime and providing a penalty therefor. Defining the meaning of crime used in this act, and repealing all acts in conflict herewith

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That from and after passing of this act it shall be and is hereby declared to be legal to conduct and hold elections in the Commonwealth of Kentucky, or any part thereof, either as is now provided for by law or in the manner hereinafter provided for in this act.

§ 2. The Fiscal Court of any county, or the legislative branch or division of any municipality, city, town or other voting district within the Commonwealth of the State of Kentucky, are hereby empowered and authorized to, either separately or jointly, purchase, lease, rent or otherwise procure for use at any election or primary election, any kind of vot-



ing machine or machines meeting the requirements of this act, and thereupon and thereafter such voting machines may be used in either a part of or in all of the precincts in such county, municipality, city, town or other voting district either at any or all elections and/or primary elections held in such county, municipality, city, town or other voting district for voting, registering and counting the votes cast in such elections. After the municipality, city, town or other voting district shall have determined and decided to procure voting machines and adopt, either in whole or in part, the method of voting and conducting elections as herein provided for, notice thereof shall be published in some newspaper printed in the English language and of general circulation in said county, municipality, city, town, or voting district. The purchase price or rental price of such machines, expenses, storage, equipment, maintenance, repair and costs of advertising, as above provided for shall be at the expense of and paid for by such county, municipality, city, town or voting district, to be allowed, approved and paid in the same manner as other claims are. All other costs of election such as compensation or pay to officers of election, rental of voting places, delivery of boxes, machines, ballots, election paraphernalia and other costs and expenses incident to the preparation for and conduct of elections shall be paid for by the same agencies or divisions of government and in the same manner as costs of elections are now or may hereafter be paid, except as may hereinafter be provided for.

§ 3. The Fiscal Court of the county, or the legislative body of the municipality, city, town or other voting district so determining to purchase, lease, rent or otherwise procure the use of voting machines and conduct elections as herein-provided for are hereby expressly authorized and empowered to determine and provide for and require such specifications supplementary to the specifications hereinbefore and hereinafter set forth as may be deemed proper for voting machines acquired, or to be acquired for use in said elections, and to

select in its or their discretion the type and make of such voting machines, to employ engineers or other skilled persons to advise and aid in the exercise of the powers and duties hereby conferred and required, or may authorize the County Board of Election Commissioners to employ such engineers or other skilled persons herein authorized or provided for. Provided, however, that none of the specifications or requirements herein provided for shall or may at any time be waived except by amendment of this act by the Legislature of the Commonwealth of Kentucky. All voting machines, when purchased, shall be delivered to the Clerk of the County Court of the county in which they are to be used, who shall have the custody of the same for all the purposes of this act subject to the rights and duties of the County Board of Election Commissioners in reference thereto as herein provided. The duties of the Clerk of the County Court in reference to delivery of said machines to and from voting places shall be the same as it is to ballot boxes and other election equipment.

§ 4. Any voting machines may be adopted, rented, purchased or used which shall be so constructed as to fulfill the following requirements; it shall secure to the voter secrecy in the act of voting; it shall provide facilities for voting for all candidates of as many political parties or organizations as may make nominations, and for or against as many questions as submitted; it shall, except at primary elections, permit the voter to vote for all the candidates of one party or in the part for the candidates of one or more other parties, it shall permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more; it shall prevent the voter from voting for the same persons more than once for the same or any other office; it shall permit the voter to vote for or against any question he may have the right to vote on; but no other; if used in primary elections it shall be so equipped that the election officials can lock out all rows except those of the voter's party by a single adjustment on the outside of the machine; it shall correctly register or record, and

accurately count all votes cast for any and all persons, and for or against any and all questions; it shall be provided with a "Protective Counter" or Protective Device, whereby any operation, of the machine before or after the time for opening or closing the election will be detected; it shall be provided with a counter which shall show at all times during an election how many persons have voted; it shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters; it may also be provided with one device for each party, for voting for all the presidential electors of that party by one operation, and a ballot therefor containing only the words "Presidential Electors For" preceded by the name of that party and followed by the names of the candidates thereof for the offices of president and vice-president and a registering device therefor which shall register the vote cast for said electors when thus voted collectively; provided, however, that means shall be furnished whereby the voter can cast a vote in part for the candidates for presidential electors of one party, and in part for those of one or more other parties or in part or in whole for persons not nominated by any party, or to vote for any person for any office when the name of such person so desired to be voted for does not appear upon the ballot as a candidate for any office.

§ 5. It is hereby declared to be the duty of the County Board of Election Commissioners, hereinafter called the Board, in each of the respective counties, or any body or board which may hereafter be provided to perform the duties now performed by said County Board of Election Commissioners, where said voting machines are used in any election held within the confines of such county, and said Board is hereby given power and authority to determine what precincts in the confines of said county, municipality, city, town or other voting district shall be first equipped with voting machines, if less than all precincts are to be so equipped at any given time, after the Fiscal Court of said county or the legislative

branch or division of any municipality, city, town or other voting district shall first determined to purchase, rent or lease voting machines for use as herein provided; provided further, however, that when the purchase, lease or rental of any number of machines as herein provided for shall have been made as herein provided for, the said County Board of Election Commissioners shall designate such number of precincts as shall permit the use of all such machines whether purchased, leased or rented.

§ 6. All ballots shall be printed on paper or clear white material of such form and size as will fill the ballot frames of the machines. In plain color type as large as the space will reasonably permit. Party nominations shall be arranged on each voting machine, either in vertical columns or horizontal rows; the caption of the various ballots on said machines shall be so placed on said machines as to indicate to the voter what push knob, key lever or other device is to be used or operated in order to vote for the candidate or candidates of his choice. The order of the arrangement of parties and of candidates shall be as now required by law.

§ 7. The officer or officers whose duty it may be under this Act to provide and furnish official ballots for any polling place where a voting machine is to be used, shall also provide not less than two sample ballots or instruction ballots which sample or instruction ballots shall be arranged in the form of a diagram showing such portion of the front of the voting machines as it will appear after the official ballots are arranged thereon or therein for voting on election day. Such sample ballots shall be open to the inspection of all voters on election day, in all primaries and general elections where voting machines are used.

There shall be furnished a sufficient number of sample ballots (a fac-simile of the face of the machine) of a reduced size.

§ 8. It shall be the duty of the authorities in charge of any election where a voting machine is to be used, to have the



machine and all necessary furniture and appliances at the proper polling place or places before the time fixed for opening of the polls, and the counters set at zero (000), and otherwise in good and proper order for use at such election, and for the purpose of placing ballots in the ballot frames of the machine, putting it in order, setting, testing, and adjusting and delivering the machine, the authorities in charge of elections may employ one or more competent persons to be known as custodian or custodians of voting machines; who shall be fully competent, thoroughly instructed, and sworn to perform their duties honestly and faithfully, and for such purpose shall be appointed and instructed at least thirty days before the election and shall be considered as officers of elections. Before preparing a voting machine for any election, written notice shall be mailed to the chairman of the committee of at least two of the principal parties, stating the time and place where the machines will be prepared, at which time one representative of each of such political parties shall be afforded an opportunity to see that the machines are in proper condition for use in the election; such representatives shall be sworn to faithfully perform their duties and shall be regarded as election officials but shall not interfere with the custodians or assume any of their duties. When a machine has been so examined by such representatives it shall be sealed with a numbered seal. Such representatives shall certify to the numbers of the machines, that all of the counters are set at zero (000), and as to the number registered on the protective counter, if one is provided, and on the seal. After the preparation of the machines, an officer or officers or someone duly authorized, other than the person who has prepared them for election, shall inspect each machine, and report in writing concerning the facts as to whether or not all of the registering counters are set at zero (000), the machine is arranged in all respects in good order for the election and locked; and as to the number registered on the protective counter; and on the seal. When a voting machine has been properly prepared for



election, it shall be locked against voting and sealed; and the keys thereof shall be delivered to the Board or officials having charge and control of elections, together with a written report made by the custodian stating that it is in every way properly prepared for the election. After the voting machines shall be transferred to the polling places, it shall be the duty of the local authorities to provide ample protection against molestation or injury to the machine. Every voting machine shall be furnished with a lantern, or a proper substitute for one, which shall give sufficient light to enable voters while voting to read the ballots and suitable for use by the election officers in examining the counters. The lantern or electric light fixture shall be prepared in good order for use before the opening of the polls. All voting machines used in any election shall be provided with a screen, hood or curtain which shall be so made and adjusted as to conceal the voter and his action while voting.

§ 9. The form and arrangement of ballots or ballots labels to be used in all voting machines used under authority of this act shall be arranged and prepared so that the titles of all offices to be voted for shall be arranged either horizontally or vertically, and the names of the candidates of each party or principle shall be arranged under or opposite the proper title, in a horizontal or vertical row or rows for each party or principle; and except that said ballot labels shall be printed in black ink on clear white material of such size and arrangement as to suit the construction of the machine and further that the designation of the party or principle which each candidate represents shall appear just above the name of each such candidate and provided further that the ballot labels shall be so arranged that exact uniformity (so far as practicable) will prevail as to size and face of printing of all candidate's names and party designations. The ballot labels for questions, including Constitutional Amendments, Referenda and other propositions shall be placed on the machine in the space provided for that purpose and may contain a condensed

statement of each proposition to be voted on, accompanied by the words "For" and "Against" or by the words "Yes" and "No". The word "Yes" shall be interpreted as meaning a vote for a constitutional amendment, statute or ordinance referred, or other proposition, and the word "No" as a vote against a constitutional amendment, statute or ordinance referred, or other proposition. The titles of the offices on the ballot labels shall be printed in type as large as the space for such office will reasonably permit; there shall be printed below the official title the words "Vote for One", "Vote for Two", in accordance with the provisions of the laws of the Commonwealth concerning and governing elections or such number as the voter is lawfully entitled to vote for out of the whole number of candidates nominated for such office.

At least one voting machine shall be provided for each five hundred registered voters, and the county courts of the respective counties are authorized and directed to re-arrange precinct boundaries and, where necessary, to enlarge or reduce the number of such precincts so as to permit, as far as may be practicable, the use of one voting machine for each five hundred registered voters where said voting machines are used; and provided, further, that each precinct shall be equipped with such number of voting machines, not exceeding one machine for each unit of five hundred voters or fractional part thereof, as the Board shall deem necessary for the proper conduct of any election.

In the polling places of precincts where voting machines are required to be used by the provisions of this Act, such elections in such polling places shall be conducted by the two Judges of election, one Clerk of election and one Sheriff of election the same as provided for in precincts where voting machines are not used. Provided, however, that nothing herein contained shall prevent the use of paper ballots as are now used in elections in polling places for which voting machines are not available or have not been procured; and in such polling places where paper ballots may be used as afore-

said, elections shall be conducted in all respects in accordance with the provisions of law relating to elections held by means of paper ballots.

In the event the two judges of election are unable to agree upon any question which it is their duty to act on or decide then and in such cases the Sheriff of election for said precinct shall be called to cast a vote breaking the tie or deadlock, and his vote shall be final.

All voting machines used in a primary election shall remain locked and sealed for the period of ten days next succeeding the date of the primary election, after which time the voting machines may be unsealed and unlocked and made available for preparation for use in the succeeding election. Provided, however, that upon receipt of notice of contest, as hereafter provided for, the Board shall, within five days from the receipt of such notice, proceed to inspect and examine the voting machines containing the votes cast for such contested office, and shall make a record of the votes cast for such contested office, and shall make a record of the votes for said contested office shown on said voting machines, which record they shall duly certify as correct and shall affix their signatures thereto, and shall preserve such records so that the same may be available in such contest as evidence of the votes cast for such office upon said voting machines. Such record shall be received as evidence as fully and with as full force and effect as if proved by the oral testimony of the persons who shall sign the same, or by the production of said voting machines in Court or before said Board. The principals of such contest, and their authorized representatives, shall be permitted to be present at the aforementioned inspection and examination of said voting machines. After such inspection, examination and recording of the results thereof, the said voting machines shall immediately thereafter be released and shall be available for preparation for use in the succeeding election.

No voter, in the use of a voting machine, shall be permit-

ted to occupy more than two minutes while other voters are waiting to use the same.

In the polling places of election precincts where voting machines are used the polls shall be opened at six o'clock A. M. and shall be closed at four o'clock P. M. and, in such polling places, Judges of election, when acting as such, shall be compensated at the same rate, as allowed to Judges of election in all other precincts where elections are conducted, and no more.

Wherever possible, the provisions hereof shall be construed in harmony with existing laws. If any of the provisions hereof shall be judicially declared to be invalid or unconstitutional, the remaining provisions hereof shall not be thereby affected, but shall remain in full force and effect.

§ 10. As used in this Act:

(1) The word "ballot-labels" shall mean the cards, paper, or other material, containing the names of offices and candidates and statements of questions to be voted on;

(2) The word "diagram" shall mean an illustration of the official ballot, when placed upon the machine, showing the names of the parties, offices, and candidates, and statements of the questions, in their proper places, together with the voting devices therefor, and shall be considered a specimen ballot;

(3) The word "question" shall mean a statement of such constitutional amendment or other proposition as shall be submitted to a popular vote at any election;

(4) The words "vote indicator" shall mean the levers, knobs or handles attached to the face of the machine by means of which the voter indicates his choice of candidates or decision of question;

(5) The words "candidate counters" and "question counters" shall mean the counters on which are registered numerically the votes cast for candidates, and on questions, respectively;

(6) The words "public counter" shall mean a counter



or other device which shall, at all times, publicly indicate how many times the machine has been voted on at an election;

(7) The words "protective counter" shall mean a counter or protective device or devices that will register each time the machine is operated, and shall be so constructed and so connected that it cannot be reset, altered, or operated, except by operating the machine;

(8) The words "voting machine booth" shall mean the enclosure occupied by the voter when voting;

(9) The word "model" shall mean a mechanically operating model of a portion of the face of the machine, illustrating the manner of voting;

(10) The word "custodian" shall mean the person charged with the duty of testing and preparing the voting machine for the election, and instructing the election officers in the use of the voting machine;

(11) The words "election" and "elections", whenever used in this act, shall be held to include and mean all general, municipal, primary and special elections;

(12) The word "board" shall mean the County Board of Election Commissioners for that county containing the precincts wherein is located the precincts in which it has been determined to use voting machines as herein provided for;

(13) The words "County Court" and "County Clerk" shall respectively mean the county court of that county containing the precincts in which it has been determined to use voting machines as herein provided for, and "County Clerk" shall mean the Clerk of such County Court.

§ 11. Every voting machine acquired or used under the provisions of this act shall:

(a) Provide facilities for voting for such candidates as may be nominated, and upon such questions as may be submitted;

(b) Permit each voter, in one operation, to vote for all the candidates of one party for presidential electors:

(c) Permit each voter, at other than primary elections,



to vote a ticket selected from the nominees of any and all parties and from independent nominations; and for any person of the voters choice for any office to be voted for, provided the name of such person of the voters choice is not a candidate for some other office to be voted on at the same election in such case the machine shall provide ways and means for the voter writing in or otherwise indicating the name of the person for whom he desires to vote and then so voting for such person of the voter's choice.

(d) Permit each voter to vote, at any election, for any person and for any office for whom and for which he is lawfully entitled to vote, and to vote for as many persons for an office as he is entitled to vote for, and to vote for or against any question which appears upon a ballot-label;

(e) Preclude each voter from voting for more persons for any office than he is entitled to vote for, and from voting for any candidate for the same office or upon any question more than once;

(f) Be capable of adjustment by election officers, so as to permit each voter at a primary election to vote only for the candidates seeking nomination by the political party with which he is affiliated, and for whose candidates he is qualified to vote, and so as to preclude him from voting for the candidates seeking nomination by any political party with which he is not affiliated; or for whose candidates he is not qualified to vote;

(g) Permit each voter to change his vote for any candidate, or upon any question appearing upon the ballot-labels, up to the time he begins the final operation to register his vote, or indicated or expresses his intention to register his vote;

(h) Permit and require voting in absolute secrecy, and shall be so constructed that no person can see or know for whom any other voter has voted or is voting, save a voter whom he has assisted or is assisting in voting as prescribed by law;

(i) Have voting devices for separate candidates and questions, which shall be arranged in separate parallel rows or columns, so that, at any primary election, one or more adjacent rows or columns may be assigned to the candidates of a party, and shall have parallel office columns or rows transverse thereto:

(j) Have a counter, or other device, to be known as a "public counter", the register of which is visible from the outside of the machine, which shall show during any period of voting the total number of voters who have operated the machine during said period of voting;

(k) Have a protective counter, or other device, the register of which cannot be reset, which shall record the cumulative total number of movements of the operating mechanism;

(l) Be provided with a lock or locks, by means of which, immediately after the polls are closed, or the operation of the machine for an election is completed, all movement of the registering mechanism is absolutely prevented;

(m) Be provided with a screen, hood or curtain, which shall conceal the actions of the voter while voting;

(n) Be constructed of material of good quality, in a neat and workmanlike manner;

(o) When properly operated, register or record correctly and accurately every vote cast;

(p) Be so constructed that a voter may readily learn the method of operating it;

(q) Be safely transportable;

(r) Be so constructed and controlled that, during the progress of voting, it shall preclude every person from seeing or knowing the number of votes registered for any candidate, and from tampering with any of the registering mechanism.

## § 12.

(a) The papers, cards or strips, enclosed within the ballot-frame or frames of any voting machine, and containing the names of a candidate or candidates, and his, her or their political party, or the statement of a question to be voted upon,

hereinafter referred to as ballot-labels, shall be printed in black ink, upon clear white material, of such size as will fit the ballot frame, and in plain clear type so as to be clearly readable by persons with normal vision.

(b) If the construction of the machine shall require it, the ballot-label for each candidate, group of candidates, or question, to be voted on, shall bear the designating letter or number of the counter on the voting machine which will register or record votes therefor. Each question to be voted on shall appear on the ballot-labels, in brief form, to be determined in the same manner as are questions which appear upon paper ballots, but said questions may appear at the top or side of the ballot-label, the provisions of any other section of this Act to the contrary notwithstanding.

(c) The ballot-label for each candidate or group of candidates, nominated or seeking nomination by a political party, shall contain the name or designation of the political party.

(d) The titles of offices may be arranged horizontally or vertically, with the names of candidates for and office arranged transversely under or opposite the title of the office.

(e) The names of all candidates, nominated or seeking nomination by a political party, shall appear in adjacent rows or columns containing generally the names of candidates nominated or seeking nomination by such party.

(f) When the same person has been nominated for the same office by more than one political party, his name shall appear in the rows or columns containing generally the names of candidates nominated by each such party.

(g) The form and arrangement of ballot-labels, to be used at any election, shall be determined by the clerk of the county court of the county in which election is being held or the candidates, questions, amendments or issues being voted upon.

(h) In primary elections, the ballot-labels, containing the names of candidates seeking nomination by a political

party, shall be segregated on the face of the machine in adjacent rows or columns by parties.

§ 13.

(a) The Board shall cause the proper ballot labels to be placed on each voting machine which is to be used in any precinct and shall cause each machine to be placed in proper order for voting; and said Board or its duly authorized agent shall examine each machine before it is sent out to a polling place; shall see that the proper ballot labels are properly arranged on each machine and that each registering counter, except the protective counter, on each machine is set at zero (000); shall lock each machine so that the counting mechanism cannot be operated; and shall seal each machine with a numbered seal. The said Board, or its duly authorized agent, shall adjust each machine, to be used at a primary election, so that the election officers may lock it on primary election day, in such a way that each voter can vote only for the candidates seeking nomination by the political party with which he is affiliated, if he is affiliated with a political party, or for whose candidates he is qualified to vote, and so that no voter can vote for the candidates seeking nomination by any political party with which he is not affiliated, or not entitled to vote.

(b) The said Board shall appoint one custodian of voting machines and three deputy custodians, whose duty it shall be, in conjunction with the clerk of the county court of said county, to prepare the machines to be used in the county at the election to be held therein. Such custodian shall, under the direction of the said Board, have charge of and represent the said Board during the preparation of the voting machines as required by this act, and he and the deputy custodians, whose duty it shall be to assist him in the discharge of his duties, shall serve at the pleasure of the said Board. Each custodian shall take the constitutional oath of office, which shall be filed with the said Board.

(c) On or before the thirtieth day preceding an election,



the said Board shall mail to the chairman of the city committee of each political party, which shall be entitled under existing laws to participate in primary elections within the city, a written notice, stating the times when and the place or places where the machines for use in the several election precincts in the county will be prepared for use. At such times and places, one representative of each of such political parties, certified by the respective chairmen of the district, county or city committees of such parties as the case may be, shall be entitled to be present, and to see that the machines are properly prepared and are placed in proper condition and order for use.

(d) The clerk of the county court in person or by one of his deputies and the custodian and deputy custodians of voting machines shall make a certificate, in writing, which each shall sign, and request each representative of a party as aforesaid present at the preparation of the machine to attest, and which shall be filed with the said board, stating (1) the identifying number or other designation of the voting machine; (2) that each registering counter of the machine was set at zero (000); (3) the number registered on the protective counter or other device of the machine; and (4) the number on the seal with which the machine is sealed.

(e) No Board, or member or employee thereof, nor custodian, nor other officer or person or persons, shall, in any way, prevent free access to and examination of all voting machines, which are to be used at the election, by any of the duly appointed representatives aforesaid; and the said county clerk and his deputies, the Board and its employees shall afford to each such representative every facility for the examination of all registering counters, protective counters, and public counters of each and every voting machine.

(f) The clerk of the county court of the county wherein voting machines are used shall furnish all ballot-labels, forms of certificates, returns and other papers and supplies, required under the provisions of this act, to be paid for as bal-



lots, ballot books and other election paraphernalia are paid for in precincts where elections are held and conducted without the use of voting machines.

§ 14. The clerk of the county court shall deliver the proper voting machine or voting machines, properly furnished with ballot-labels, to the polling places of the respective election precincts at least one hour before the time set for opening the polls at each election, and shall cause each machine to be set up in the proper manner for use in voting. Each machine shall then remain sealed until the examination immediately preceding the opening of the polls prescribed by this act.

(b) The Board shall provide ample protection against molestation of and injury to the voting machine, and, for that purpose, the said Board or any of the Judges of Election shall and may call upon any police officer or other peace officer to furnish such assistance as may be necessary, and it shall be the duty of police officers and other peace officers to furnish such assistance when so requested by the said Board or by any Judge of Election.

(c) The clerk of the county court shall furnish, at the expense of the county, municipality, city, town or voting district providing the voting machines and deliver with each voting machine:

(1) A lantern, or a proper substitute for one, which shall give sufficient light to enable voters, while in the voting machine booth, to read the ballot-labels, and suitable for the use of the judges of election in examining the counters. The lantern, or proper substitute therefor, shall be prepared and in good order for use before the opening of the polls.

(2) Two diagrams or sample ballots, of suitable size, representing such part of the face of such voting machine as will be in use in the election, and accompanied by illustrated directions for voting on the machine. Such diagrams shall be posted prominently outside the enclosed space within the polling-place.

(3) A mechanically operated model of a portion of the face of a voting machine, for the instruction of voters. Such model shall be placed in the polling-place and at or outside of the guard-rail.

(4) A seal for sealing the machine after the polls are closed, unless the construction of the machine is such that the machine is automatically locked and sealed when the results are exposed; an envelope for the return of the keys, if the construction of the voting machine shall permit their separate return; and such other election materials and supplies as may be necessary, or as may be required by law.

§ 15. Before each election at which voting machines are to be used the Board or the employees thereof or the custodian shall instruct in the use of the machine, and in their duties in connection therewith, all judges of election who are to serve thereat and who have not previously been instructed and found qualified; and they shall give to each judge of election, who has received such instruction and is fully qualified to conduct the election with the machine, a certificate to that effect. For the purpose of giving such instruction, the said Board or the custodians shall call such meeting or meetings of the judges of elections as shall be necessary. Each judge of election shall, upon notice, attend any such meeting or meetings called for his instruction and receive such instructions as shall be necessary for the proper conduct of the elections with the machine. No judge of election shall serve in any election at which a voting machine is used unless, he shall have received such instruction and is fully qualified to perform his duties in connection with the machine, and has received a certificate to that effect from the Board or one of the custodians of the machines; Provided, however, that this shall not prevent the appointment of a judge of election to fill a vacancy arising on the day of election, or within three days preceding the day of election.

§ 16.

(a) The Board shall deliver the keys, which unlock the

operating mechanism and the registering counters or counter compartment of the voting machine, to one of the judges of election not earlier than noon of the third day preceding an election, nor later than three-quarters of an hour before the time set for the opening of the polls, and shall take the judge's receipt therefor. The keys shall be enclosed in a sealed envelope, on which shall be written or printed: (1) The number of the voting machine; (2) the name or designation of the precinct; (3) the number of the seal; and (4) the number registered on the protective counter or device as reported by the custodian.

(b) No judge of election shall open an envelope so delivered, until another judge of the opposite political party shall be present in the polling-place, and shall have examined the envelope to see that it has not been opened.

(c) Before opening the envelope, both judges of election shall examine the number on the seal on the machine, and the number registered on the protective counter or device, and shall see whether they are the same as the numbers written on the envelope containing the keys. If either number shall be found not to agree, the envelope shall remain unopened until the judges of election shall have notified the custodian of voting machines, or the Board and until the custodian or some other person authorized by the said Board shall have presented himself at the polling-place for the purpose of re-examining the machine, and shall have certified that it is properly arranged.

(d) But if the numbers on the seal and the protective counter or device shall be found to agree with the numbers on the envelope, the judges of election shall examine the registering counters, and, for that purpose, shall open the doors concealing such counters, if the construction of the voting machine shall so require, and, before the polls are opened, the said judges shall carefully examine every registering counter, and shall see that it registers zero (000), with the exception

of the protective counter or device, and shall allow the watchers to examine the counters.

(e) If the ballot-labels containing the names of offices, parties, candidates, and questions, shall not be in their proper places on the voting machine, the judges of election, forthwith, shall notify the custodian of voting machines, or the clerk of the county court or the board, and the machine shall not be used until the custodian, or some other person authorized by the said clerk of the county court or the board, shall have supplied ballot-labels as herein prescribed. If the ballot-labels for a voting machine shall not be delivered at the time required, or, if, after delivery, they shall be lost, destroyed, or stolen, the clerk of the county court or the board or custodian shall cause other ballot-labels to be furnished, prepared, printed or written, as nearly in the form of the official ballot-labels as practicable, and shall cause such ballot-labels to be used in the same manner, as nearly as may be, as the official ballot-labels would have been used.

(f) The judges of election shall sign a certificate showing: (1) the identifying number or other designation of the voting machine; (2) the delivery of the keys in a sealed envelope; (3) the number on the seal upon the machine; (4) the number registered on the protective counter or device; (5) that all of the counters were set at zero (000); (6) that the ballot-labels are properly placed in the machine; and (7) that every vote indicator in connection with or belonging to a blank space immediately adjacent (either horizontally or vertically) to the space containing the name of any candidate or the word "Yes" or "No", "For" or "Against", in connection with any question, is locked against operation, which certificate shall be returned by the judges of election to the Board with the other certificates as hereinafter provided.

(g) The machine shall remain locked against voting until the polls are opened, and shall not be operated except by voters in voting. If any counter except the protective counter or device, is found not to register zero (000), the



judges of election shall immediately notify the custodian, or the Board, who shall, if practicable, adjust or cause the counters to be adjusted at zero (000); but, if it shall be found impracticable for the custodian or other person authorized by the said Board to arrive in time so to adjust such counters before the time set for opening the polls, the judges shall immediately make a written record of the designation or designating letter or number of each counter, together with the number registered thereon, hereinbelow called the initial number, and shall sign and post the same upon the wall of the polling-place, where it shall remain until the polls are closed; and, in filling out the returns of the election, if the final number of such counter is greater than the initial number, the election officers shall subtract the initial number from the final number and enter the difference on the returns as the vote for the candidate or on the question represented by such counter; if the final number of such counters is less than the initial number, the judges of election shall add one thousand to the final number and shall subtract the initial number from the sum so ascertained, and shall enter upon the returns as the vote for the candidate or on the question represented by such counter the final number plus one thousand less the initial number.

(h) The exterior of the voting machine, and every part of the polling-place, shall be in plain view of the judges of election and watchers. Every voting machine shall be located in the polling-place, at least six feet back of the guard-rail, in such a position that, unless its construction shall require otherwise, the ballot-labels on the face of the machine can be seen plainly by the judges of election and watchers when the machine is not occupied by a voter. The judges of election shall not themselves be, nor allow any other person to be, in any position that will permit one to see or ascertain how a voter votes, or how he has voted. The said judges, or one of them, shall inspect the face of the machine at frequent intervals, to see that the ballot-labels are in their proper



places, and that the machine has not been injured or tampered with.

(i) During an election, the door, or other covering of the compartment containing the counters of the machine, shall not be unlocked or opened, or the counters exposed, except by the action of the proper custodian of voting machines for good and sufficient reason, a statement of which shall be made in writing and signed by him and attested by the signatures of the judges of election, or except upon the written order of the Board for good and sufficient reason which shall be stated in the order.

§ 17. (a) During the thirty days next preceding an election, the Board shall place on public exhibition, in such public place, on such days and at such times as they may deem most suitable for the information and instruction of the voters, one or more voting machines, containing the ballot-labels, and showing the offices and questions to be voted upon, the names and arrangements of parties, and, as far as practicable, the names and arrangement of the candidates to be voted for. Such machine or machines shall be under the charge and care of a person competent as custodian and instructor. No voting machine, which is to be assigned for use in an election, shall be used for such public exhibition and instruction, after having been prepared and sealed for the election.

(b) During such public exhibition and instruction, the counting mechanism of the voting machine shall be concealed from view, and the doors, or cover concealing the same, shall be opened, if at all, only temporarily, and only upon written authorization from the Board.

(c) Prior to any election the Board may cause copies of any diagram or diagrams, required to be furnished with voting machines at polling-places, to be made, either in full size or in reduced size, and to be posted, published, advertised or distributed among the voters in such manner as the said Board may deem desirable.

§ 18. (a) The judges of election shall, with the aid of

the diagrams herein authorized, and the mechanically operated model, instruct each voter, before he enters the voting machine booth, regarding the operating of the machine, and shall give the voter opportunity personally to operate the model.

(b) No voter shall be permitted to receive any assistance in voting at any election, unless he shall declare under oath to the judges of election that by reason of blindness or physical disability he is unable to read the names upon the ballot-labels or to see the machine, or, without, assistance, to prepare it for voting, or enter the voting machine booth without assistance. Upon making, and filing with the judges such affidavit, the voter shall retire to a voting machine, with two of the judges of opposite political parties, and then and there one of said judges in the presence of the other shall operate the machine as such voter shall direct, the voter himself orally naming one by one the candidates for whom he desires his vote to be recorded or by indicating the candidates by a general designation as the candidates of any one political party. Such disabled voter desiring to vote for or against any proposed amendment, or on any submitted question, must, without suggestion of any kind made by either of the judges, state orally the amendment or question upon which he desires to vote and whether he desires to vote "Yes" or "No" or "For" or "Against" such amendment or question. The ballot-label shall not be read to such voter, nor shall any suggestion of any kind be made by either of said judges to show him as to how his choice shall be indicated, but the only assistance which it shall be lawful for the judges to give him is to move the vote indicators as he, without prompting or suggestion from them or either of them, shall direct, but no voter shall be assisted under this section until the two judges of election and the sheriffs of election shall be satisfied of the truth of the fact stated in such affidavit. Voters who are not unable, by reason of blindness or physical disability, to operate the machine without assistance shall not be entitled to

receive assistance in so doing. And with the exception in favor of persons blind or incapable by reason of physical disability of operating a voting machine without assistance, no distinction or discrimination in the matter of assistance in operating such machine shall be made for or against any duly registered voter for any other cause whatever. The voter shall state in his affidavit the specific physical disability which requires him to receive assistance, and the judges of election shall enter in writing on the record of assisted voters: (1) the voter's name; and (2) the specific physical disability which required him to receive assistance.

(c) If, however, any voter, after entering the voting machine booth, and before the closing of such booth, shall ask for further instructions concerning the matter of voting, then two of the judges of opposite political parties shall give him such instructions, but no such judge shall, in any manner, request, suggest, or seek to persuade or induce any such voter to vote any particular ticket, or for any particular candidate, or for or against any particular question. After giving such instructions, and before the voter closes the booth or votes, the judges shall retire, and the voter shall forthwith vote.

§ 19. In primary elections, before a voter is admitted to the voting machine, it shall be adjusted by a judge of election in charge thereof so that such voter will only be able to vote for the candidates of the party with which he is affiliated.

§ 20. At any general election, at which presidential electors are to be chosen, the machine shall be so adjusted that each voter shall be enabled to vote, by one operation, for all the presidential electors of a party. For each party nominating presidential electors, a ballot-label shall be provided, containing only the words "Presidential electors", preceded by the name of the party, and followed by the names of the candidates thereof for the offices of President and Vice-President, and the corresponding counters or registering devices shall register votes cast for said electors when thus voted for collectively, but the machine shall be so prepared that it

shall be possible for the voter to indicate his choice of as many candidates for the position of presidential elector as there are presidential electors to be elected.

§ 21. (a) When the polls are closed, all qualified voters, who are then waiting in line to vote, shall be permitted by the judges to do so. As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever or mechanism of the machine so that the voting and counting mechanism will be prevented from operation, and they shall then sign a certificate stating: (1) that the machine has been locked against voting and sealed; (2) the number of voters, as shown on the public counters; (3) the number on the seal which they have placed upon the machine; (4) the numbers registered on the protective counter or device; and (5) the number or other designation of the voting machine, which certificate shall be returned by the judges of election to the officials authorized by law to receive the same. The judges shall then compare the number of voters, as shown by the counter of the machine, with the number of those who have voted as shown by the protective counter or device.

(b) The judges, in the presence of the watchers and all other persons who may be lawfully within the polling-place shall then make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the same, giving full view of all the counter numbers. The judges shall, under the scrutiny of the watchers, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the designation or designating numbers and letters on each counter, and the results as shown by the counter numbers for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the



judges, in ink, on triplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the judges. The vote for presidential electors shall be computed and returned as provided herein. If more than one voting machine is used in any precinct, the vote registered on each machine shall be ascertained in like manner, and separately entered in appropriate spaces on the general and triplicate return sheets and statement. The total vote cast for each candidate, and for and against each question, shall then be computed and entered on the general and triplicate return sheets and statement. There shall also be entered on the general return sheet and statement the number of voters who have voted, as shown by the lists of voters, and the number who have voted on each machine, as shown by the public counters, and also the number registered on the protective counter or device on each machine immediately prior to the opening of the polls and immediately after the closing thereof and sealing of the machine. The number or other designation of each machine used shall also be entered thereon. In the case of primary elections, triplicate return sheets shall be prepared for each party. The registering counters of the voting machines shall remain exposed to view until the said returns and all other reports have been fully completed. During such time, any candidate, or duly accredited watcher, who may desire to be present, shall be admitted to the polling-place.

(c) The proclamation of the result of the votes cast shall be announced distinctly and audibly by one of the judges of election, who shall read the name of each candidate, the designation or designating numbers and letters of his counters and the vote registered on each counter, also the vote cast for and against each question submitted. During such proclamation ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the machine, and any necessary corrections shall then and there be made by the judges, after which the



doors or other cover of the voting machine shall be closed and locked and the return sheet shall be signed by each of the judges of election. If any judge shall decline to sign such return, he shall state his reason therefor in writing, and a copy thereof, signed by himself, shall be enclosed with such return. Each of the return sheets shall be enclosed in an envelope, which shall then be secretly sealed with sealing wax, or other sealing material, and each of the judges shall write his name across the fold of the envelope. One of the triplicate return sheets shall be directed to the County Board of Election Commissioners of the county in which election is being held, one to the local governing body of each of the two dominant political parties, and the general return sheet and statement shall be directed and immediately delivered to the clerk of the county court of the county in which said precinct is located, together with the keys of the voting machine, inclosed in a sealed envelope, if the construction of the voting machine shall permit their separate return. Said envelope shall have indorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective counter or device at the close of the polls.

(d) As soon as possible after the completion of the count, the clerk of the county court for the county in which said precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

§ 22. The general return sheet, triplicate return sheets, and statement, shall be printed to conform with the type of voting machine used. The designating number and letter, if any, on the counter for each candidate shall be printed thereon opposite the candidate's name. Immediately after the vote has been ascertained, the statement thereof shall be posted on the door of the polling-place. Thereupon, each of the judges shall take into his possession two of the above mentioned return sheets, sealed up in its envelope as aforesaid, and the

meeting of said judges shall then be dissolved. Thereupon the said judges shall forthwith deliver the said return sheets to the respective officers and persons to whom they are addressed, as aforesaid, and shall take receipts therefor. The judges representing each of the two dominant political parties shall take the envelope addressed to the local governing authority of the party with which said respective judges are affiliated, also one of the judges shall take and deliver the envelope addressed to the Board and the other judge shall take and deliver the envelope addressed to the county clerk.

§ 23. After each general or special election, the voting machine shall remain locked against voting for the thirty days next following such election, except that it may be opened and all the data and figures therein examined, upon the order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of such machine, and such data and such figures shall be examined by such court, judge or committee in the presence of the officer having the custody of such machine. In the event of a contest of election the court in which such contest is pending or the committee before which said contest is being heard may upon motion of any party to said contest issue an order requiring that said voting machines shall remain continuously locked for such further time as may be reasonable or necessary, with due regard for the preparation of said machines for a succeeding primary, general or special election, but in no event shall such order compel that said machines remain locked to a time within thirty days next preceding any such approaching primary, general or special election.

§ 24. Whenever it shall appear that there is a discrepancy in the returns of any precinct, or, upon petition of three voters of any precinct, verified by affidavit, that an error, although not apparent on the face of the returns, has been committed therein, the Board shall, at any time prior to the

completion of the computation of all of the returns for the said election, summon the officers of election of the precinct, and said officers, in the presence of said Board, shall make a record of the number of the seal upon the voting machine, and, without unlocking the machine against voting, shall recanvass the vote cast thereon. Before causing such recanvass, the said Board shall give notice in writing to the custodian of voting machines, and to each candidate, and to the chairman of the city committee of each party affected by the canvass, and each such candidate may be present in person, or by attorney, and each of such parties may send two representatives to be present at such recanvass. If, upon such recanvass, it shall be found that the original canvass of the returns has been correctly made from the machine, and that the discrepancy still remains unaccounted for, the said Board, with the assistance of the custodian, in the presence of the judges of election and the authorized candidates and representatives, shall unlock the voting and counting mechanism of the machine, and shall proceed thoroughly to examine and test the machine to determine and reveal the true cause or causes, if any, of the discrepancy in returns from such machine. Each counter shall be reset at zero (000) before it is tested, after it shall be operated at least one hundred times. After the completion of such examination and test, the custodian shall then and there prepare a statement, in writing, giving in detail the result of the examination and test, and such statement shall be witnessed by the persons present, and shall be filed with the said Board. If, upon such recanvass, it shall appear that the original canvass of the returns by the election officers was incorrect, the said returns and all papers being prepared by the said Board shall be corrected accordingly: Provided, however, that there shall be no change in the vote of any candidate from that originally certified unless such candidate was actually notified or notice to someone previously designated by such candidate as the person upon whom notice could be served.

§ 25. (a) The clerk of the county court shall have the

custody of all voting machines, and the keys therefor, when the machines are not in use at an election, and shall provide for the safe storage and care of the machines and keys.

(b) All voting machines, when not in use, shall be properly boxed or covered, and stored in a suitable place or places as provided by this section.

§ 26. Any officer of election, or other person, who shall violate any of the provisions of this act, or who shall tamper with, or injure, or attempt to injure, any voting machine to be used or being used in an election, or who shall prevent, or attempt to prevent, the correct operation of such machine, or any unauthorized person who shall make or have in his possession a key to a voting machine to be used or being used in an election, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to undergo imprisonment for not more than one year, or to pay a fine not exceeding one thousand dollars (\$1,000), or both, in the discretion of the court.

§ 27. Except as modified by the provisions of this act, the general laws regulating general, municipal, primary, special, and other elections shall apply to all elections in accordance with the provisions of this act.

§ 28. If any of the provisions of this act shall be judicially declared to be invalid or unconstitutional, the remaining provisions thereof shall not be thereby affected, but shall remain in full force and effect.

§ 29. AND BE IT FURTHER ENACTED, That all laws or portions of laws inconsistent with or in conflict with the provisions hereof are hereby repealed to the extent of such inconsistency or conflict herewith, but not otherwise.

To Committee on Kentucky Statutes No. 1.

By Senator Gibson.

S. B. 78. An Act to amend and re-enact Section 165a-9



of Carroll's Kentucky Statutes, 1936 Edition, relating to fees for examination of banks.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section one hundred sixty-five a-nine (165a-9) of Carroll's Kentucky Statutes one thousand nine hundred thirty-six (1936) Edition, be and the same is hereby amended and re-enacted so that, when thus re-enacted, it shall read as follows:

For the report of a bank, trust company, or combined bank and trust company, a filing fee of one dollar (\$1.00) shall be paid by such institution to the *Director of the Division of Banking*.

For each examination as is now or may hereafter be provided for by law, the institution examined shall pay to the *Director of the Division of Banking* the following fees, to-wit:

On each bank, trust company or combined bank and trust company having assets of not more than \$300,000 a flat fee of \$25.00; institutions having assets of \$300,000 and not more than \$600,000 a flat fee of \$30.00; on each institution having assets of \$600,000 and not more than \$1,000,000 a flat fee of \$40.00; on each institution having assets of \$1,000,000 and not more than \$2,000,000 a flat fee of \$60.00; on each of said institutions having assets of \$2,000,000 and not more than \$4,000,000 a flat fee of \$100.00; and on each of said institutions having assets of \$4,000,000 or more a flat fee of \$200.00. *Provided, however, that a fee of \$50.00 shall be paid to the Director of the Division of Banking for the investigation and examination incident to the granting of a charter to a proposed new bank.*



To Committee on Banks and Trust Companies.

By Senator Gibson.

S. B. 79. An Act to amend and re-enact Section 610 of Carroll's Kentucky Statutes, 1936 Edition, relating to the indebtedness or obligation of a person, company or firm to a trust company; and providing for a change in the maximum amount permitted.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section six hundred ten (610) of Carroll's Kentucky Statutes, one thousand nine hundred thirty-six (1936) Edition, be and the same is hereby amended and re-enacted, so that, when thus re-enacted it shall read as follows, to-wit:

No trust company shall permit any of its stockholders, or any person, company or firm, including in the liability of the company or firm the liability of the individual members thereof, directly or indirectly, to become indebted *and/or obligated as a guarantor or surety* to it in a sum exceeding *twenty* per cent. of its capital stock actually paid in, and surplus actually on hand, unless such borrower deposits with it good collateral security, or executes to it a mortgage upon real or personal estate, which, at the time, is of more than the cash value of such loan, *indebtedness and/or obligation* above all other incumbrances, and if the borrower is a director or officer of such company, he shall not be permitted to become indebted *and/or obligated as guarantor or surety* to it in excess of ten per cent of its paid-up capital, without securing the excess by the mortgage or pledge of real or personal property, double in value the amount of such excess, and in no event shall the indebtedness *and/or obligation* of any person, company or firm, including in the liability of the company or firm the liability of the individual members thereof, exceed *thirty* per cent of its

paid-up capital and actual surplus. *Any loan made, and/or obligation entered into for the benefit of a person, company or firm shall be included in the total liabilities of the person, company or firm.*

To Committee on Banks and Trust Companies.

By Senator Gibson.

S. B. 80. An Act to amend and re-enact Section 583 of Carroll's Kentucky Statutes, 1936 Edition, relating to the indebtedness or obligation of a person, company or firm to a bank, the highest amount permitted, certain bills of exchange not included.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section Five Hundred Eighty-Three (583) of Carroll's Kentucky Statutes, One Thousand Nine Hundred Thirty-Six (1936) Edition, shall be and the same is hereby amended and re-enacted so that, when thus re-enacted, it will read as follows, to wit:

No bank shall permit any of its stockholders, or any person, company or firm, including in the liability of the company or firm the liability of the individual members thereof, directly or indirectly, to become indebted *and/or obligated as guarantor or surety* to it in a sum exceeding twenty per cent of its capital stock actually paid in, and its actual amount of surplus, unless such borrower, *guarantor or surety*, pledge with it good collateral security, or execute to it a mortgage upon real or personal estate, which at the time is of more than the cash value of such loan, indebtedness *and/or obligation* above all other incumbrances, and if the borrower is a

director or officer of such bank he shall not be permitted to become indebted *and/or obligated as guarantor or surety* to it in excess of ten per cent of its paid-up capital stock, without securing the excess by the mortgage or pledge of real or personal property double in value the amount of such excess; and in no event shall the indebtedness *and/or obligation* of any person, company or firm, including in the liability of the company or firm the liability of the individual members thereof, exceed thirty per cent of its paid-up capital and actual surplus. *Any loan made, and/or obligation entered into, for the benefit of a person, company or firm shall be included in the total liabilities of the person, company or firm.* Provided that the discount of bills of exchange drawn against actually existing value and the purchase or discounting of commercial or business paper actually owned by the person negotiating the same shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness, *and/or obligation* of any person, firm or corporation, selling or negotiating said paper to the bank.

To Committee on Banks and Trust Companies.

By Senator Gibson.

S. B. 81. An Act to repeal, amend and re-enact Sections 165a-15 and 586 of Carroll's Kentucky Statutes, 1936 Edition, relating to the impairment of a bank's capital, duty of bank and Director of the Division of Banking, reduction of capital and how impairment shall be made good.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Sections one hundred sixty-five a-fifteen (165a-15) and five hundred eighty-six (586) of Carroll's Kentucky Stat-

utes, one thousand nine hundred thirty-six (1936) Edition, be and are hereby repealed, amended and re-enacted, so that, when thus re-enacted, the reading shall be as follows, to wit:

Section one hundred sixty-five a-fifteen (165a-15). Whenever it shall appear that the capital stock of any bank has been impaired, the *Director of the Division of Banking of the Department of Business Regulation*, shall notify such bank and each director thereof, to make such impairment good within thirty days, and it shall be the duty of the officers and directors of any bank receiving such notice from the *Director of the Division of Banking* immediately to call a special meeting of its stockholders for the purpose of making assessments on its stock sufficient to cover the impairment of its capital, payable in cash: Provided, that such bank may with the consent of the *Director* reduce its capital to the extent of the impairment, if such reduction will not place its capital below the amount required by law.

*The board of directors of every bank whose capital shall have become impaired by losses or otherwise, shall, within thirty days after receiving notice from the Director of the Division of Banking assess the deficiency in such capital upon the stockholders, to be paid in cash, pro rata for the amount of capital stock held by each. Notice of the amount so assessed upon each stockholder and that, if the same is not paid within the time herein limited, a sufficient amount of his stock will be sold as herein provided, shall be given to him by registered mail. If any stockholder of such bank neglects or refuses to pay such assessment within sixty days after receipt of such notice, it shall be the duty of the board of directors to cause a sufficient amount of the stock of such stockholder to be sold at either public or private sale, to make good the deficiency, and the balance, if any, shall be returned to such delinquent stockholder. If the directors of such bank shall fail for thirty days after such notice to levy such assessment, the Director of the Division of Banking may, with the advice and consent of the Attorney General, institute such proceedings as may be*

*necessary to wind up the affairs of the bank. If any bank shall fail to cause to be paid in such deficiency in its capital stock for ninety days after receiving such notice from the Director of the Division of Banking, the Director of the Division of Banking may forthwith institute such proceedings as may be necessary to wind up the affairs of the bank.*

*A sale of stock as provided in this section shall effect an absolute cancellation of the outstanding certificate, or certificates, evidencing the stock so sold, and shall make said certificate, or certificates, null and void, and a new certificate, or certificates, shall be issued by the bank to the purchaser of such stock.*

To Committee on Banks and Trust Companies.

By Senator Gibson.

S. B. 82. An Act pertaining to banking, and to amend and re-enact Section 595 Carroll's Kentucky Statutes, 1930 Edition, as amended by Chapter 1 of the Acts of the Extraordinary Session of the General Assembly of the Commonwealth of Kentucky of 1933, and as amended by Chapter 12 of the Acts of the Regular Session of the General Assembly of the Commonwealth of Kentucky of 1936, so as to provide to the holders of non-assessable preferred capital stock issued by a bank or trust company or combined bank and trust company exemption from assessment to restore impairment of capital and rights with respect to dividends, voting and conversion rights, control of management and preference in the event of retirement of said stock, or liquidation of the corporation, and prescribing a basis for determination of whether or not there exists an impairment of the capital of a bank or trust company or combined bank and trust company which has issued such stock.



Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section five hundred ninety-five (595) Carroll's Kentucky Statutes one thousand nine hundred thirty (1930) Edition, as amended by Chapter One (1) of the Acts of the Extraordinary Session of the General Assembly of the Commonwealth of Kentucky of one thousand nine hundred thirty-three (1933), and as amended by Chapter Twelve (12) of the Acts of the Regular Session of the General Assembly of the Commonwealth of Kentucky of one thousand nine hundred thirty-six (1936), be and the same is hereby amended and re-enacted so as to read as follows, to-wit:

“Section five hundred ninety-five (595). Double liability of stockholders; nonassessable preferred stock. The stockholders of each bank organized under this article shall be individually responsible, equally and ratably, and not one for the other, for all contracts and liabilities of such bank to the extent of the amount of their stock at par value in addition to the amount of such stock; but persons holding stock as fiduciaries shall not be personally liable as stockholders, but the estate in their hands shall be liable in the same manner and to the same extent as the property of other stockholders; and no transfer of stock shall operate as a release of any such liability existing at the time of such transfer, provided the action to enforce such liability shall be commenced within two years from the time of the transfer; and the directors of each bank shall, in January of each year, file with the *Director of the Division of Banking* a correct list of the stockholders and officers of such bank.

The additional liability herein imposed upon shareholders in banks organized under the laws of this State shall not apply with respect to shares in any such banks issued after *May 16, 1936*. Such additional liability shall cease on July one (1) one thousand nine hundred thirty-seven (1937), or at

such date as the double liability of stockholders in National banks ceases under the National bank laws, with respect to all shares issued by any such bank in this State which shall be transacting the business of banking on the above date; provided, that not less than six months prior to such date such bank shall have caused notice of such prospective termination of liability to be published in a newspaper published in the city, town or county in which such bank is located, and if no newspaper is published in such city, town or county, then in a newspaper of general circulation therein. If such bank fail to give such notice as and when above provided, a termination of such additional liability may thereafter be accomplished as to the date six months subsequent to publication in the manner above provided.

Any bank or trust company, or combined bank and trust company, heretofore or hereafter organized under the laws of this Commonwealth, may issue nonassessable preferred capital stock, of one or more classes, to which the double liability shall not apply, *and the holders of which shall not be liable for assessment to restore impairment in the capital of such corporation.*

Such preferred capital stock shall not be considered as any part of the minimum capital stock required by Sections 577, 598b-2, 603, 612a or 883c-1 Kentucky Statutes, Carroll's Edition one thousand nine hundred thirty-six (1936), but shall be considered a part of the 'capital stock' of such bank or trust company, or combined bank and trust company, for all other purposes, and in the case of existing corporations shall be issued in the manner now provided for increasing capital stock.

The holders of such preferred capital stock shall be entitled to receive such cumulative dividends at a rate not exceeding six (6) per centum per annum *of the amount received by the banking corporation in payment of such preferred stock*, and shall have such voting and conversion rights, and such control and management, *and such stock shall be subject*

*to retirement at such price, with such premium, in such manner and upon such conditions as may be provided in the original or amended articles of incorporation, and, if the corporation is placed in voluntary liquidation, receiver or liquidator is appointed therefor, no payment shall be made to the holders of common stock until the holders of such preferred stock shall have been paid in full such amount, not in excess of the amount received by the corporation in payment for such stock plus an amount equal to all unpaid dividends thereon accrued to date of payment, as may be provided in the original or amended articles of incorporation.*

No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in.

*If any part of the capital stock of a bank or trust company, or combined bank and trust company organized under the laws of this State consists or shall consist of such preferred capital stock, the determination of whether or not the capital of such bank or trust company, or combined bank and trust company is impaired, and the amount of such impairment shall be based upon the par value of its stock, even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the par value of such preferred capital stock."*

To Committee on Banks and Trust Companies.

By Senator Gibson.

S. B. 83. An Act providing that banks incorporated under the laws of any other state shall not do any business in this Commonwealth, except to lend money; and providing for the repeal of all laws and parts of laws in conflict with this Act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That no bank or banking institution incorporated under the laws of any other state shall be permitted to receive deposits or transact any banking business of any kind in this Commonwealth, except to lend money.

§ 2. All laws and parts of laws in conflict with this Act are hereby repealed to the extent of such conflict.

To Committee on Banks and Trust Companies.

By Senator Attkisson.

S. B. 84. An Act to provide for the payment of premiums on bonds executed by county officers elected by the voters of the county.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. All county officers elected by the voters of the county and who, upon assuming their respective offices, are required under the law to execute an official bond for the faithful discharge and the performance of their duties, and who shall have such bond executed by an incorporated surety company authorized to do surety business in the State of Kentucky, may pay the premium on such bond, and the amount paid for such premium shall be and become a valid claim against the county in and for which they are elected, and shall be paid in the same manner as other claims are paid, or the surety company may bill the county direct for the premium on said bond; provided that in each case in which a claim is made for the payment of a premium on the bond executed as above set

out, the officer executing the bond as principal shall verify the claim by his or her affidavit, and that the amount of the premium to be paid on said bond shall be approved by the Fiscal Court of said county.

To Committee on Appropriations.

By Senator Bowen.

S. B. 85. An Act entitled an Act to amend Section 606 of the Civil Code of Practice.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 606 of the Civil Code of Practice be amended by striking out of said section subsection 1 and inserting in lieu thereof the following:

“In all actions between husband and wife, or between either or both of them and another, either or both of them may testify as other witnesses, except as to confidential communications between them during marriage, provided, however, that neither may be compelled to testify for or against the other,” so that when said Section 606 is amended and re-enacted it shall read as follows, to wit:

1. In all actions between husband and wife, or between either or both of them and another, either or both of them may testify as other witnesses, except as to confidential communications between them during marriage, provided, however, that neither may be compelled to testify for or against the other.

2. Infant; lunatic or dead person; when party may testify against. Subject to the provisions of subsection 7 of this section, no person shall testify for himself concerning any verbal statement of, or any transaction with, or any act done or omitted to be done by an infant under fourteen years of



age, or by one who is of unsound mind or dead when the testimony is offered to be given except for the purpose, and to the extent of affecting one who is living, and who, when over fourteen years of age and of sound mind, heard such statement, or was present when such transaction took place, or when such act was done or omitted, unless—

a. Infant; provision as to. The infant or his guardian shall have testified against such person, with reference to such statement, transaction or act; or,

b. Person of unsound mind. The person of unsound mind shall, when of sound mind, have testified against such person, with reference thereto; or,

c. Decedent; provision as to. The decedent, or a representative of, or some one interested in, his estate, shall have testified against such person, with reference thereto; or,

d. Agent of decedent or person of unsound mind. An agent of the decedent or person of unsound mind, with reference to such act or transaction, shall have testified against such person, with reference thereto, or be living when such person offers to testify with reference thereto.

3. Party can not testify after introducing other testimony. No person shall testify for himself, in chief, in an ordinary action, after introducing other testimony for himself, in chief; nor in an equitable action, after taking other testimony for himself, in chief.

4. Attorneys and priests as to communications and confessions. No attorney shall testify concerning a communication made to him, in his professional character, by his client, or his advice thereon, without the client's consent; nor shall a clergyman or priest testify concerning any confession made to him, in his professional character, in the course of discipline enjoined by the church to which he belongs, without the consent of the person confessing.

5. Party testifying against dead persons or lunatic. If the right of a person to testify for himself be founded upon the fact that one who is dead or of unsound mind has testified

against him, the testimony of such person shall be confined to the facts or transactions to which the adverse testimony related.

6. Entries in books; when party may testify concerning; production of. A person may testify for himself as to the correctness of original entries made by him against persons who are under no disability—other than infancy—in an accounting, according to the usual course of business though the person against whom they were made may have died or have become of unsound mind; but no person shall testify for himself concerning entries in a book, or the contents or purport of any writing under the control of himself, or of himself and others jointly, if he refuse or fail to produce such book or writing, and to make it subject to the order of the court for the purposes of the action, if required to do so by the party against whom he offers to testify.

7. Assignor of claims when incompetent. The assignment of a claim by a person who is incompetent to testify for himself shall not make him competent to testify for another.

8. Adverse party may be compelled to testify. A party may be examined as if under cross-examination at the instance of the adverse party, either orally or by deposition as any other witness; but the party calling for such examination shall not be concluded thereby, but may rebut it by counter testimony.

9. Affidavits; attesting witnesses; provisions of this section do not apply to. None of the preceding provisions of this section apply to affidavits for provisional remedies, or to affidavits of claimants against the estates of deceased or insolvent persons, or affect the competency of attesting witnesses of instruments which are required by law to be attested.

To Committee on Judiciary.

By Senator Wesley.

S. B. 86. An Act to repeal, amend and re-enact Section

1321 Carroll's Kentucky Statutes, 1936 Edition, making it unlawful to operate moving picture shows on the Sabbath Day.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That section 1321 Carroll's Kentucky statutes 1936 edition be repealed, amended and re-enacted so that same when re-enacted and amended shall read as follows:—

No work or business shall be done on the Sabbath day, except the ordinary household offices, or other work of necessity or charity, or work required in the maintenance or operation of a ferry, skiff, steam boat or steam or street rail road, telegraph and telephone companies; public service or public utility plants or systems, or taxi. If any person shall on the Sabbath day himself be found at his own or any other trade or calling or shall employ his apprentices or other person, in labor or other business, whether the same be for profit or amusement, unless such as is permitted above, he shall be fined not less than two nor more than fifty dollars for each offense. Every person or apprentice so employed shall be deemed a separate offense. Persons who are members of a religious society who observe as a Sabbath day any other day in the week than Sunday shall not be liable to the penalty prescribed in this section, if they observe as a Sabbath day one day in each seven, as herein provided. Provided, amateur sports, athletic games, chautauqua, filling stations, or opera shall not be construed as work, labor, trade, business or calling within the meaning of this section.

To Committee on Municipalities.

By Senator Mayer.

S. B. 87. An Act authorizing the Department of Highways of the Commonwealth of Kentucky to acquire from any city of the first class any toll bridge theretofore constructed

or acquired by such city from the proceeds of revenue bonds of such city and to issue bridge revenue bonds of the Commonwealth for the purpose of obtaining funds with which to pay the cost of acquiring such bridge; providing for the call and redemption of such outstanding bonds of such city; providing for the conveyance of any such bridge by deed containing restrictions and covenants as to the collection and use of tolls; providing the powers, rights, and duties of such city, its bridge commission, and the Department of Highways with reference to any such bridge and its transfer hereunder; and declaring an emergency to exist.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. The Department of Highways of the Commonwealth of Kentucky, as an agency of the Commonwealth, is hereby authorized and empowered (a) to acquire from any city of the first class any toll bridge which such city shall have theretofore constructed or acquired from the proceeds of revenue bonds of such city, and (b) to issue bridge revenue bonds of the Commonwealth for the purpose of obtaining funds with which to pay the cost of acquiring such bridge. Such cost shall be deemed to be the amount required to pay the principal of and the interest and redemption premium, if any, on all revenue bonds or revenue refunding bonds of such city which shall then be outstanding and be payable from tolls and other revenues of such bridge. Except as hereinafter provided, the issuance of such bonds, the rights of the holders thereof, and the duties of the Commonwealth and of the Department in respect to the same, shall be governed by the provisions of Chapter 172 of the Acts of the General Assembly of Kentucky in 1928 and Chapter 157 of the Acts of the General Assembly of Kentucky in 1930, insofar as the same may be applicable. Upon the receipt of an offer from the Department of Highways to acquire any such bridge under the pro-



visions of this Act, the legislative body of such city shall determine by resolution whether to accept such offer. If such offer shall be so accepted, the Department of Highways shall provide for the issuance of such amount of bridge revenue bonds of the Commonwealth as may be necessary, at the purchase price to be paid therefor, to obtain funds with which to pay the cost of acquiring such bridge; providing, however, that all moneys derived from tolls and other revenues of such bridge, whether belonging to the sinking fund for such outstanding revenue bonds or revenue refunding bonds or to the revenue fund or to any other fund, which shall be in the possession of the bridge commission of such city or in the possession of the trustee under an indenture securing such outstanding bonds, shall be set aside and used in the payment of the principal of, and the interest and redemption premium on, such outstanding bonds to the extent directed by the Department of Highways. It shall be the duty of such bridge commission or of such trustee, upon being notified by the Department of Highways that it has sold bridge revenue bonds under the provisions of this Act, to call for redemption on the next redemption date all revenue bonds or revenue refunding bonds of such city which shall then be outstanding and be payable from tolls and other revenues of such bridge. Upon the issuance of bridge revenue bonds of the Commonwealth and the setting aside in trust for such purpose and in the manner required by the indenture, if any, securing such outstanding bonds, of sufficient moneys to pay all principal, interest and redemption premium on the outstanding bonds, such bridge shall thereupon be conveyed by deed by such City to the Department of Highways for the use and benefit of the Commonwealth. Said deed of conveyance shall be signed and executed by the Mayor of such City, and shall contain such restrictions and covenants with regard to the collection and use of tolls as may be agreed upon by such City and the Department of Highways. All such moneys remaining in the possession of the bridge commis-



sion or the trustee and not set aside for the payment of any items of expense theretofore incurred in maintaining, repairing and operating the bridge, shall be paid into the sinking fund for such bridge revenue bonds of the Commonwealth. After any such bridge shall become the property of the Department of Highways as hereinabove provided, the Department shall charge tolls for transit over such bridge, and such tolls shall be so fixed and adjusted as may be required by any law of the United States now in force or hereafter to be enacted, and shall be so fixed and adjusted as to provide a fund sufficient to pay at or before their maturity all bridge revenue bonds of the Commonwealth issued to pay the cost of acquiring such bridge, together with the interest thereon and any lawful premium for the retirement of such bonds before maturity. And such tolls shall be continued until all such bonds and interest thereon shall be paid.

§ 2. Upon making provision for the payment of all bonds which are payable from the tolls of any bridge acquired under the provisions of this Act, unless provision for such payment shall be made from the proceeds of refunding bonds, such bridge shall thereafter be free of tolls for pedestrian and vehicular traffic and shall be maintained, operated and kept in repair by the Department of Highways or other agency of the Commonwealth from the State Road Fund, except that rentals and other revenues received from electric light and power, telephone, telegraph, gas and pipe line companies for use of such bridge, shall be applied to the payment of the cost of maintaining, operating, and repairing such bridge.

§ 3. The powers conferred upon the Department of Highways by this Act are supplemental to all other powers vested in the Department. All the powers and duties of the Department in relation to bridges and to bridge revenue bonds shall be powers and duties of the successor or successors of said Department from time to time and of any officer, board, or commission to whom or to which any such power or duty shall be transferred by or in accordance with law.

§ 4. Whereas, to make this law operative, it will be necessary to call for redemption all bonds presently outstanding on any bridge heretofore constructed or acquired from the proceeds of revenue bonds of cities of the first class and to issue bridge revenue bonds of the Commonwealth of Kentucky for the purpose of obtaining funds with which to pay the cost of acquiring any such bridge, and

Whereas, in view of the prevailing uncertain conditions of business, it is highly possible that the bond market may, at any time, decline to such an extent as to make it impossible or inexpedient to issue and sell the bonds provided for herein, and

Whereas, it will be impossible to call for redemption such bonds of cities of the first class, presently outstanding, and to stop the interest from accruing thereon until this law is effective,

An emergency is hereby declared to exist, and this Act shall take effect immediately from and after its passage and approval by the Governor.

To Committee on Kentucky Statutes No. 1.

By Senator Tackett.

S. B. 88. An Act to repeal, amend and re-enact Section 1093, Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 1093 of Carroll's Kentucky Statutes, 1936 Edition be and the same is hereby repealed and re-enacted so that when re-enacted it shall read as follows:

That justices, county and quarterly courts and the judges thereof, and police courts in cities of the first, second, third, fourth, fifth and sixth class of this Commonwealth and the

judges thereof, shall have jurisdiction exclusive of circuit courts in all penal and misdemeanor cases, the punishment of which is limited to a fine of not exceeding twenty dollars, and jurisdiction concurrent with circuit courts of all penal and misdemeanor cases, the punishment of which is limited to a fine of not exceeding five hundred dollars, or imprisonment not exceeding twelve months, or both.

*But the police courts shall have original and exclusive jurisdiction of violations of city ordinances which are also statutory and common law crimes.*

Nothing in this act shall abridge or repeal the right of appeal from any judgment of conviction as now by law made and provided.

All laws or parts of laws in conflict herewith are hereby repealed.

To Committee on Judiciary.

By Senator Buckley.

S. B. 89. An Act relating to the trapping of animals.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That it shall hereafter be unlawful for any person in this state to set, use or maintain, for the capture of furbearing animals, any trap, snare, or other device which does not either take alive unhurt or kill at once. That it shall be lawful to use any of the new kinds of leghold traps which take and hold without pain or injury, any box or wire-cage trap, the old-fashioned deadfall, and the instant-killing traps for very small animals, *Provided*, that if instant-killing traps are used, they shall be set within a burrow or hole, so as not to injure domestic animals.

§ 2. That it shall be unlawful for any person to set any

trap or traps on the land of another person without written permission from the owner of the land.

§ 3. That each person who shall set a trap or traps must visit it or them at least once in each twenty-four (24) hours and release any animal found therein.

§ 4. That any violation of this law, or of any part thereof, shall be subject to a fine of not less than ten or more than fifty dollars.

To Committee on Kentucky Statutes No. 1.

By Senator Buckley.

S. B. 90. An Act to amend "An Act authorizing the establishment of free public libraries in cities of the Second and Third Classes" which was enacted at the regular session of the General Assembly of the Commonwealth of Kentucky held in the year 1902, and which was approved March 21, 1902, and which appears as Chapter 70 of the Acts of the General Assembly passed at said regular session of the year 1902, at pages 155 to 158 thereof, and which also appears as Section 3210b-1 of Carroll's Kentucky Statutes, Baldwin's Revision, published in the year 1936, as said Act may have been heretofore amended; and for other purposes.

Said bill is as follows, viz.:

WHEREAS, it has been found from long experience that the provisions now made by law for the establishment, support and maintenance of free public libraries in cities of the Second Class in this Commonwealth are insufficient to provide annually the income and revenue reasonably necessary for such establishment, support and maintenance, and

WHEREAS, in the Act passed at the regular session of the general Assembly, held in the year 1902 and approved on March 21, 1902, which appears as Chapter 70 of the aforesaid Acts of 1902, and also as Section 3210b-1 of Carroll's Ken-

tucky Statutes, Baldwin's Revision, published in the year 1936, the provision therein made that "Three per centum (3%) of the net amount of taxes levied annually in the city for common school purposes" has heretofore been adjudged to be unconstitutional and inoperative, and cities of the Second Class have been unable to avail themselves of said provision and no other source of income has heretofore been provided as a substitute for said three per centum (3%) of the net amount of taxes levied annually in the city for common school purposes, and

WHEREAS, by existing law, provision has been made whereby the governing authorities of any city of the First, Third, Fourth, Fifth, and Sixth Classes are authorized to levy, for public library purposes, an annual tax upon all property assessed and taxed for city purposes, within the rates and limits by such laws prescribed, but no such provision has ever been made with respect to free public libraries in cities of the Second Class in this Commonwealth; and the need for such power and authority is most urgent; NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Chapter 70 of the printed Acts passed by the General Assembly at its regular session held in the year 1902, which was approved March 21, 1902, and now appears as Section 3210b-1 of Carroll's Kentucky Statutes, Baldwin's Revision, published in the year 1936, be amended and re-enacted so that same as amended and hereby enacted shall read as follows, to wit:

That as soon as a sufficient fund for that purpose shall be accumulated, under the provisions of this Act, augmented by private contributions or otherwise, in any city of the second class, there shall be established and maintained in such city a free public library, and in cities of the second class wherein, under any act of the General Assembly, a free



library has been established, the same shall continue as herein provided. Said free public library shall be under the direction and control of a board of trustees, consisting of seven members, to be styled the "Board of Trustees of the Public Library," and which said board of trustees of the public library shall continue, and they are hereby declared a body politic and corporate, under said name and style, with perpetual succession, and by that name may contract and be contracted with, sue and be sued, have and use a corporate seal, the same to alter and renew at pleasure, or may act without a seal; may purchase, receive, lease, hold, sell and dispose of real and personal estate for public library purposes. Said board shall have the custody, control, management and expenditure of all funds that may heretofore have been *acquired or accumulated* for free public library purposes, or that may hereafter be *acquired or accumulated* for or be devoted to said purposes; *and any funds, securities, or other personal or real property, or the proceeds of real or personal property, heretofore received or that may hereafter be received by said board by gift or donation, or otherwise in trust for library purposes, may be held intact as the principal of an investment or endowment fund subject to investment and reinvestment from time to time, in real or personal property, and such fund, if and when established, may be allowed to accumulate for such length of time and to such an amount as said board, in its discretion, shall deem prudent and advisable; and, likewise, in the discretion of said board all or any part of the gains and income arising from such fund may, as it accrues, be allowed to accumulate and be added from time to time to such fund, and thereby become and be a part of the principal and be managed, invested, treated and disposed of for all purposes as principal and be held and maintained intact as such corpus or principal.*

The mayor of the city, and presiding judge of the county court of the county in which the city may be located, in case the county contributes annually to the maintenance of the

public library shall be ex officio members of said board and the remaining five members thereof shall be appointed by the mayor one for one year, one for two years, one for three years, two for four years, and their successors, as said terms shall respectively expire, to be appointed for four years, and shall be so selected and appointed as never to have more than four members thereof of the same political party, and that two members of said board shall be women. The members of said board so appointed by the mayor shall be citizens of the city and not less than thirty years of age, shall serve without compensation, shall each give a bond in the sum of five thousand dollars, for the faithful performance of their respective duties, and shall take an oath before the mayor to faithfully perform their duties. *Vacancies shall be filled as herein before provided and appointments made for the duration of the unexpired term.*

Said board shall have no power to charge any of the real or personal property of said corporation with any debt or liability, and shall at no time expend, in the operation or maintenance of the library, or for any other purpose, any money in excess of that annually appropriated by the provisions of this act, and should said board attempt to impose any debt or liability upon the property of said free public library, or make any contract for amounts of money in excess of that annually appropriated by the provisions of this act, all such contracts or liabilities shall be void as against the free public library, and such members of the board as may vote for such debts, liabilities or expenditures of money shall be personally liable for the same.

*The board shall meet once each month and oftener if necessary for the transaction of business. At its first meeting in each fiscal year the board shall elect a President, a Vice-President and a Secretary-Treasurer. The Treasurer shall submit an itemized report of receipts, expenditures and balance on hand at each monthly meeting and a similar report at the end of the fiscal year. Said board shall have the power*

necessary to establish, and when established, to maintain and conduct said free public library and may adopt from time to time rules and regulations for the proper conduct of said library. Said library shall be open and free to the public, under such rules and regulations as the board of trustees may prescribe, during reasonable and proper hours. *Said board is empowered to employ such technical and clerical staff as may be necessary to successfully conduct the affairs of the library. The librarian shall submit a monthly and yearly report to the board describing the kind and amount of the various services rendered. Such yearly report with the Treasurer's yearly report shall be sent within sixty days after the close of the fiscal year to the state library agency authorized by law to secure such information.*

Then there is already established in the city a public or private library, the board of trustees of the public library may enter into an agreement with the association or corporation, owning or controlling such library, whereby such library, including books, real and personal property, may be transferred or leased to said board of trustees of the public library, for a term of years or in perpetuity, or united with that established by the city under the provisions of this or any former act.

Said library shall be strictly non-sectarian and non-partisan, and always so conducted. And the legislative body of the city shall, by a proper ordinance, provide penalties and the method of imposing the same, for the *protection and preservation of books and equipment*, the property of said free public library, and the prevention of trespass upon the grounds *or buildings* thereof, and for the proper conduct of patrons of said library; and all fines and costs collected for the violation of such ordinance or ordinances shall, when collected, be paid over to the board of trustees of said library.

In aid of the establishment, *upkeep, support* and maintenance of such free public library, there is hereby appropriated *for its use and benefit* one-half of the net amount of

all fines, forfeitures, and costs collected in the police court of such city; and, to further aid in the establishment, upkeep, support, and maintenance of such free public library, and in consideration of the public use thereof, the general Council or board of City Commissioners or other governing authority, as the case may be, of any such city of the second class, shall annually, in its annual ordinance fixing the tax rate, include a levy for public library purposes, of not less than two cents (2c) and not exceeding five cents (5c) on each one hundred dollars (\$100) of the value of all property assessed for taxation for city purposes and the amount so levied shall annually be appropriated and passed to the credit of the free public library, upon the books of said city, and the amounts of such levy as collected, shall be paid over to the free public library aforesaid by the city, in regular monthly or quarterly installments, as may be most convenient to the city; and all money so appropriated, levied, collected, and paid over to and received by such free public library, together with such other money or funds, if any, it may receive for the purpose from any other source, or sources, shall be used in conducting and maintaining said library for the public uses and purposes aforesaid and for none other. All moneys due the library shall be deposited in an insured bank in said city and funds shall be withdrawn from said bank only on order of the board by check of its treasurer, countersigned by its president or its vice-president when acting in his stead.

And to further aid in the establishment and maintenance of such public library, the general council or other governing authority of the city and the fiscal court of the county, either or both, jointly or separately, are hereby authorized and empowered to accept, by ordinance, resolution, order or contract, (and, if necessary, unite with the board of trustees of the public library), any donation that may have been offered by Andrew Carnegie or may hereafter be offered by any person, persons, association or corporation, and comply with the conditions upon which said donations may be offered and



accepted, and make the terms of said contract perpetually binding upon said city and county; and said general council or other governing authority of the city and fiscal court of the county shall annually levy such special tax as may be necessary to comply with said conditions or terms of any such contract, and to provide the sums of money agreed therein to be paid annually and perpetually for the maintenance of said public library, and shall cause the same to be collected as and when other taxes are collected and paid over promptly to the board of trustees of the public library.

§ 2. *That in any city of the second class where, by any contract or obligation now existing and in force or where, by any contract or obligation that may hereafter be entered into by such city, any such city of the second class has covenanted, agreed and bound itself to pay toward the establishment, upkeep, support and maintenance of any free public library already established or that may at any time hereafter be established in such city, a minimum sum certain, such contract or obligation shall be and remain in full force and effect notwithstanding the provisions by this Act made for the establishment, support upkeep and maintenance of any such free public library; and any payment or payments required to be made by the city in consequence of any such contract or obligation made and entered into by it with any other person or persons, institution or institutions, whether incorporated or unincorporated, shall be met and discharged by the city in addition to the provisions by this act made for raising and providing revenue for the support, upkeep and maintenance of any such free public library; and any such city of the second class shall not have the right to apply or take credit to itself against the amount from it by reason or on account of any such contract or obligation, any monies derived from the general tax levy hereby authorized and directed to be made, or any monies derived from fines, forfeitures or costs collected in the police court of such city, one-half of the net amount of all of which fines, forfeitures and costs, collected in such police court, are*



*hereby appropriated to be paid over to the Board of Trustees of the free public library of such city for the support, upkeep, and maintenance hereof; and any public library of such city of the second class shall be entitled to receive in full the sum or sums annually made payable to it by the governing authority of such city by virtue and in pursuance of any such contract or obligation wholly unaffected by the provisions of this Act for raising revenue for library purposes by means of an annual general tax levy within the limits and at the rate hereinbefore provided, and for paying over to the Board of Trustees of such free public library one-half of the net amount of all fines, forfeitures and costs collected in the police court of such city.*

§ 3. *It shall be the duty of said board of trustees to annually estimate the needs of the free public library for the ensuing year and it shall, sixty days before the beginning of the fiscal year submit a statement of such estimated needs to the governing authority of said city and it shall be the duty of said governing authority in making its apportionments and the annual levy for city purposes, to include in its levy the estimated needs, as provided herein, however, not to exceed in any one year five cents (5c) on each one hundred dollars (\$100.00) of taxable property within said city, in addition to such special tax as may be necessary to be levied to comply with the conditions and terms of any contract or obligation that may be or may heretofore have been entered into by said city, as hereinbefore mentioned.*

§ 4. *All laws and parts of laws in conflict with this Act, or any part or provision thereof, are hereby repealed.*

§ 5. *This Act shall be in force from and after its passage and approval as provided by law, and after such passage and approval shall be in full operation with the beginning of the Fiscal Year next ensuing in the cities of the Second Class.*

To Committee on Library & Historical Records.

By Senator Wesley.

S. B. 91. An Act creating and establishing as a part of

the primary system of highways in the Commonwealth of Kentucky a road in Pulaski County, beginning at Elihu running through Cabin Hollow and Northfield to the old Coal Bank road at Jugornot.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That there is hereby established as a part of the Primary System of State Highways of the State of Kentucky a road beginning at Elihu in Pulaski County, running by Cabin Hollow and Northfield to the old Coal Bank road at Jugornot in said county.

To Committee on Roads & Highways.

By Senator Buckley.

S. B. 92. An Act relating to libraries, creating a board for the certification of librarians and defining powers, and prescribing penalties.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the State of Kentucky:*

§ 1. This act is presented in order to provide for the improvement of library service in the State.

§ 2. There is hereby created in the Library Extension Division of the Department of Library and Archives a State Board for the Certification of Librarians, which shall consist of the State Librarian, who shall be an ex-officio member, the Head of the Library Extension Division and five members, to be appointed by the Governor from a list submitted by the Board of Directors of the Kentucky Library Association. Two of said members shall be full time professional librarians in active public library work, two shall be full time professional

librarians in institutions of higher learning and one member shall be a library trustee.

Except in the case of the ex-officio member of the Board and the Head of the Library Extension Division, the term of office of each member shall be four (4) years. The first members of the Board, excepting the ex-officio member and the Head of the Library Extension Division, shall be appointed for terms beginning July 1, 1938; one for a term of one (1) year; one for a term of two (2) years; one for a term of three (3) years; and two for a term of four (4) years. Vacancies shall be filled by appointment for the unexpired terms in the same manner as original appointments are made.

The members shall receive no compensation except actual and necessary expenses, incurred in attending meetings, not to exceed \$10.00 per member per meeting.

The Board shall hold at least one meeting each year at a time to be fixed by the rules of the Board, and such special meetings as may be determined by the board. A Chairman and Secretary shall be elected at each annual meeting to serve during the ensuing year.

§ 3. The Board shall grant certificates of librarianship without examination to applicants who are graduates of library schools approved by the Board and shall grant certificates to other applicants when it has satisfied itself by examination that the applicant has attainments and abilities for professional library work and is competent to carry on library work ably and efficiently.

The Board shall have the authority to issue renewals, to determine the positions for which certificates of librarianship shall be required, and to adopt rules and regulations not inconsistent with the law for its own government and for carrying out the purposes of this act.

§ 4. This act shall not be construed to affect any librarian in his or her present position, providing said librarian has served in library work in the state for at least one year prior to the taking effect of the act. Such librarians as are

now in service shall be entitled to receive a certificate in accordance with their qualifications, without examination, upon the payment of prescribed fee, and such a certificate shall be a life certificate.

§ 5. After January 1, 1939, any library coming under this act shall not have in its employ, in the position of librarian, or in any other full time professional library position, a person who does not hold a certificate of librarianship issued by the board.

§ 6. The provisions of this act shall apply to public libraries and all other libraries supported in whole or in part by public funds and with the exceptions of the county law libraries, law and legislative libraries, public school libraries, and libraries in municipalities, counties, regions or other governmental units having less than 3,000 population.

§ 7. The Board may issue certificates to qualified persons who are serving in libraries not supported from public funds.

§ 8. The Board shall require a fee of not less than one dollar nor more than five dollars to be paid by each applicant for a librarian's certificate.

§ 9. Any person, group of persons or Corporation violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction shall be fined not less than \$10.00 nor more than \$100.00 for each offense and each day that such violation continues shall be deemed a separate offense.

§ 10. The librarian's certification fund is hereby created in the State Treasury. It shall be a revolving fund and all moneys collected under the provisions of this act shall be deposited in said fund. All moneys credited to said fund shall be used for the support of the Board of Certification of Librarians, and for the purposes of this act, in accordance with law.

§ 11. The Board shall have the right to revoke certificates issued under the provisions of this act and held by any



person who may be guilty of violating the provisions of this act, provided, however, that written notice of such proposed action shall have been delivered in person, or forwarded by registered mail to the holder of such certificate at the last known Post Office address, stating the cause for such contemplated action together with a copy of the charges and appointing a time and a place for hearing thereon by the Board.

§ 12. The Board shall grant hearings for the purposes of reconsidering applications and awards, provided the applicant files with the Board within a period of twenty days of issuance of or refusal to issue a certificate, a petition for rehearing. The Board's refusal to grant certificates may be reviewed and its issuance may be ordered by any court having jurisdiction.

§ 13. If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any Court of competent jurisdiction to be invalid such judgment shall not affect, impair or invalidate the remainder of said Act, and shall be confined in its operation to the clause, paragraph or part thereof directly involved in the controversy in which said judgment shall have been rendered.

To Committee on Kentucky Statutes No. 1.

By Senator Wesley.

S. B. 93. An Act to require the State Highway Commission of Kentucky to mark the center of highways constituting the primary system of highways, and of all highways constructed by said Commission.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That on all highways constituting the Primary System of State Highways, and on all highways heretofore or here-



after constructed by the State Highway Commission of Kentucky, said Commission, when it can reasonably do so, shall with a plainly visible mark, indicate the center of said highway.

The cost to be paid out of the State road fund.

To Committee on Roads and Highways.

By Senator Buckley.

S. Res. 22. Joint Resolution authorizing Waller B. Hunt and Sue S. Hunt to sue the Commonwealth of Kentucky and the State Highway Commission, or either.

Said resolution is as follows, viz.:

WHEREAS, on March 30, 1935, Waller B. Hunt was driving his automobile in a northerly direction on the Stearns and Somerset Road (designated Highway No. 27) near Flat Rock, McCreary County, Kentucky, with Sue B. Hunt, his wife, as a passenger and on said occasion he drove his automobile around the southern portion of a reverse curve in said highway and upon the railroad crossing of the Cincinnati, New Orleans and Texas Pacific Railway Company at an angle and that because of the negligent construction, location and maintenance of said highway at said point and that because of the negligent construction, location and maintenance of said railroad crossing, all of which were maintained by the State Highway Commission and the Cincinnati, New Orleans and Texas Pacific Railway Company at said time, the automobile of Waller B. Hunt slid upon the railroad crossing and across the same into a culvert located on the shoulder at the northeast edge of the highway and immediately north of said railroad crossing.

WHEREAS, the said Waller B. Hunt, by reason of the carelessness and negligence of the State Highway Commission in the construction, location and maintenance of the ap-

proaches to the said railroad crossing, and further by reason of said railroad crossing, he was severely injured and his automobile demolished and that Sue B. Hunt was severely and permanently injured, all of which damages and injuries were caused and brought about by the carelessness and negligence of the State Highway Commission, as aforesaid, THEREFORE,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That said Waller B. Hunt and Sue B. Hunt are hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission, or either, and to prosecute said suits in the United States District Court for the Eastern District of Kentucky for such damages to their property, or that of either of them, and for such personal injuries that they, or either of them, may have suffered, if any, by reason of or received by them through the carelessness or negligence of the State Highway Commission in the construction, location and maintenance of the approaches to the said railroad crossing, and the negligent or careless construction, location and maintenance of said railroad crossing. Said suit for Waller B. Hunt for property damage shall be for any amount not exceeding the sum of Four Hundred Dollars (\$400.00) and for personal injuries received by him for any amount not exceeding the sum of Three Thousand Five Hundred and Sixty-seven Dollars (\$3,567.00), and said suit for Sue B. Hunt for personal injuries received by her shall be for any amount not exceeding the sum of Sixty-four Thousand Nine Hundred and Eighty-six Dollars (\$64,986.00), and in the event any judgment is recovered by said Waller B. Hunt for property damage or personal injuries received by him, or in the event any judgment is recovered by said Sue B. Hunt for personal injuries received by her or if said suits are compromised or settled, the amount of the settlements shall be paid

by the Auditor of Public Accounts by warrants drawn on the State Treasury and paid out of the General Fund.

§ 2. Either party to said suit may appeal from any judgment which may be entered therein as in any other civil suits, and the said cases may be settled, compromised or adjusted by and with the consent and approval of the Attorney General of Kentucky in the same manner or way as any other civil case may be settled, compromised or adjusted.

To Committee on Kentucky Statutes No. 1.

### CALENDAR

The Senate took up for consideration from the Calendar a bill entitled, viz.:

H. B. 27. An Act relating to peace officers and prohibiting compensation of sheriffs, deputy sheriffs, constables, deputy constables, patrols and other peace officers and deputy peace officers by private persons, firms or corporations; providing for the removal of such officers so privately compensated, and for the removal of sheriffs, constables and peace officers for neglect of duty in failing to remove deputies so privately compensated; providing for the appointment and compensation of special local peace officers; and providing penalties for the violation of this act.

Senator Ervine Turner moved that the constitutional provision as to the second reading at length of said bill be dispensed with and the same be read for the second time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, said bill was read for the second time by its title only and ordered placed in the Orders of the Day.

## ORDERS OF DAY

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

H. B. 54.

AN ACT creating the Thirty-eighth Judicial District of Kentucky, fixing the time of holding courts thereof; changing the Sixth, Seventh and Eighth Judicial Districts as is necessary by the creation of the 38th Judicial District, and fixing the time of holding courts thereof; providing for the appointment and election of a Circuit Judge and a Commonwealth's Attorney for the Thirty-eighth Judicial District; providing for present Circuit Judges of the sixth, seventh and eighth Judicial Districts to continue for the term for which elected; and declaring an emergency to exist.

Whereas there has been a large increase of the population and a large development of the resources of the present Sixth, Seventh and Eighth Judicial Districts of Kentucky, and whereas litigation in Equity in each of said districts has increased to such an extent that it is impossible for the judges in said districts to do the work required of them in the equity branch of the courts and also sit as trial judge in the common law and criminal branches of said courts in the time now allotted by law, or which could be allotted by law, and

Whereas by reason of these facts the Equity and trial dockets of some of the counties of said districts are congested, and it is impossible for the judges to keep up with the docket, now, therefore:

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. There is hereby created the Thirty-eighth Judicial District of Kentucky, which shall be composed of the counties of Butler, Edmonson, Muhlenberg and Ohio.

§ 2. The Sixth Judicial District of Kentucky shall be composed of the counties of Daviess, McLean and Hancock.

§ 3. The Seventh Judicial District of Kentucky shall be composed of the counties of Logan, Simpson and Todd.

§ 4. The Eighth Judicial District of Kentucky shall be composed of the counties of Warren and Allen.

§ 5. The present Judge and Commonwealth's Attorney in each of said Sixth, Seventh and Eighth Judicial Districts shall retain the said offices during the term of office for which they were elected, but the present Judge of the Seventh Judicial District, being a resident of the County of Muhlenberg, a county of the Thirty-eighth Judicial District, shall remove into said Seventh District within a reasonable time, and in the event said Circuit Judge does not remove into said Seventh Judicial District within a reasonable time, the Governor of the Commonwealth of Kentucky shall appoint and commission a Circuit Judge for the Seventh Judicial District, who shall hold his office until his successor is elected and qualified at the next regular November election in said Seventh Judicial District, in which state, county and district officers are elected, in the year 1939.

§ 6. The Governor shall appoint and commission a Circuit Judge for the Thirty-eighth Judicial District created by this Act, who shall hold his office until his successor is elected and qualified at the next regular November election in which state, county and district officers are elected in the year 1939. The Governor shall also appoint and commission a Commonwealth's Attorney in said Thirty-eighth Judicial District, who shall hold his office until his successor is elected and qualified at the next regular November election in which state, county and district officers are elected in the year 1939.

§ 7. The courts in the Sixth Judicial District and in the several counties composing the same shall be held at the following times and places at the time hereinafter set out:

*Daviess County*, at Owensboro; first Monday in January, eighteen juridical days; fourth Monday in February, eighteen



juridical days; third Monday in April, twelve juridical days; second Monday in May, eighteen juridical days; third Monday in July, twelve juridical days; third Monday in September, twelve juridical days; third Monday in October, eighteen juridical days.

*Hancock County*, at Hawesville; fourth Monday in January, twelve juridical days; third Monday in June, twelve juridical days; second Monday in November, twelve juridical days.

*McLean County*, at Calhoun; third Monday in March, twelve juridical days; first Monday in July, twelve juridical days; fourth Monday in November, twelve juridical days.

§ 8. The courts in the Seventh Judicial District and in the several counties composing the same shall be held at the following times and places at the time hereinafter set out:

*Logan County*, at Russellville; first Monday in February, twenty-four juridical days; first Monday in May, twenty-four juridical days; first Monday in September, twenty-four juridical days.

*Simpson County*, at Franklin; first Monday in March, eighteen juridical days; first Monday in June, twenty-four juridical days; second Monday in November, eighteen juridical days.

*Todd County*, at Elkton; fourth Monday in March, eighteen juridical days; first Monday in July, twenty-four juridical days; first Monday in December, eighteen juridical days.

§ 9. The courts in the Eighth Judicial District and in the several counties composing the same shall be held at the following times and places at the time hereinafter set out:

*Warren County*, at Bowling Green; first Monday in January, eighteen juridical days; third Monday in February, thirty-six juridical days; first Monday in April, eighteen juridical days; third Monday in May, thirty-six juridical days; first Monday in September, eighteen juridical days; third Monday in October, thirty-six juridical days.

*Allen County*, at Scottsville; third Monday in January,

eighteen juridical days; fourth Monday in April, eighteen juridical days; fourth Monday in September, eighteen juridical days.

§ 10. The courts in the Thirty-eighth Judicial District and in the several counties composing the same shall be held at the following times and places at the time hereinafter set out:

*Muhlenberg County*, at Greenville; first Monday in January, twenty-four juridical days; first Monday in May, twenty-four juridical days; first Monday in October, twenty-four juridical days.

*Butler County*, at Morgantown; first Monday in February, twelve juridical days; first Monday in June, twelve juridical days; first Monday in September, twelve juridical days.

*Ohio County*, at Hartford; first Monday in March, eighteen juridical days; first Monday in July, eighteen juridical days; first Monday in November, eighteen juridical days.

*Edmonson County*, at Brownsville; first Monday in April, twelve juridical days, first Monday in August, twelve juridical days; first Monday in December, twelve juridical days.

§ 11. Whereas the equity and trial dockets in some of the counties of said districts are now congested and have been for many months and business is being retarded by the failure of the courts to decide cases now pending before them and it is necessary in order that the decisions in such litigation may be expedited as quickly as possible that this act become effective immediately, an emergency is hereby declared to exist. This Act shall become effective immediately upon its passage by the General Assembly and the approval by the Governor.

§ 12. The provisions of this Act or the sections thereof are declared to be severable; and if any paragraph, section or part thereof should be by the courts declared unconstitutional, it shall not affect the remainder of said Act.

Senator Wise moved that consideration of said bill be

deferred and made a special order of business for the hour of one o'clock, p. m., Tuesday, January 25th, 1938.

Said motion was disagreed to.

Senator Attkisson moved the Previous Question.

Whereupon, the President of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with.

Said bill was read the third time by its title only and passed.

The yeas and nays being taken thereon in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	Ralph Gilbert	Ira W. See
Aubrey Barbour	John M. Hall	Jos. P. Tackett
Paul M. Basham	J. Joseph Hettinger	Ervine Turner
H. Stanley Blake	Stanley B. Mayer	Thomas O. Turner
Ollie J. Bowen	Strother Melton	E. T. Wesley
Leer Buckley	E. C. Moore	Otis White
Dr. D. H. Bush	Dr. R. C. Moss	O. C. Whitfield
Edwin C. Dawson	Ray B. Moss	B. M. Williams
W. C. Farmer	James C. Rogers	J. M. Wolfinbarger

Those who voted in the negative were—

Lee Gibson	J. Lee Moore	J. E. Wise	
Wm. H. Jones, Jr.	Paul L. Sidebottom		—5

Resolved that the title thereof be as aforesaid.

Senator Gilbert moved that the vote by which said bill was passed be reconsidered and that said last named motion lie on the table.

Said motion was agreed to.

Senator Gilbert moved that the Senate do now recess until 2:30 o'clock, p. m.

Said motion was agreed to.

And then the Senate recessed.

The appointed hour having arrived, the President of the Senate resumed the Chair and called the Senate to order.

### HOUSE MESSAGE

A message was received from the House announcing that they had passed bills and a resolution which originated in that body of the following titles, viz.:

H. B. 11. An Act to amend and re-enact Chapter 65, Article 5, Section 17 of the Acts of the General Assembly of the Commonwealth of Kentucky enacted at its 1934 Regular Session and effective June 14, 1934. Said act relating to the qualifications of board members, and being edited as Section 4399-22, Baldwin's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Chapter 65, Article 5, Section 17 of the Acts of the General Assembly of Kentucky at its Regular 1934 Session be amended and re-enacted and when so amended and re-enacted shall read as follows:

A person to be eligible to membership on a board of education must have attained the age of twenty-four years, must have been a citizen of the Commonwealth of Kentucky for at least three years preceding his election and must be a voter of the district for which he is elected. He must have completed at least the eighth grade in the common schools as shown (a) by the records of the school in which said eighth grade was completed; or (b) by affidavits of the teacher or teachers under whom the work was completed; or (c) by an examination to be held under such rules and regulations as may be adopted by the State Board of Education for holding such an examination. He must not hold or discharge the duties of any civil or political office, deputyship, or agency under the city or county of his residence. A board member shall be eligible for re-election unless he becomes disqualified as herein provided.

No member of a board of education shall vote regarding the appointment or employment in any capacity of any person related to such member as father, mother, brother, sister, husband, wife, son, daughter, nephew, niece, aunt, uncle, son-in-law, daughter-in-law, or first cousin, and the majority vote of the remainder of the board shall be required in case of appointment or employment of such person.

No person shall be eligible to this office who at the time of his election is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended. If, at any time after the election of any member of such board, he shall become interested in any such con-



tract with or claims against the board, or if he shall after election become a candidate for any office or agency for the nomination thereto, the holding and the discharging of the duties of which would have rendered him ineligible before election, or if he shall move his residence from the district for which he was chosen or if he shall do or incur anything which would have rendered him ineligible for re-election, his office shall without further action be vacant, and it shall be filled as hereinafter provided.

No person shall be eligible to serve as a member of a board of education who has been removed from membership on a board of education for cause.

All laws or parts of laws in conflict herewith are hereby repealed.

Ordered that said bill be printed and referred to the Committee on Education.

H. B. 92. An Act relating to the transfer of school districts or parts of districts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That boards of education in independent school districts in incorporated cities, where the independent district boundaries extend beyond the city boundaries, may by joint and concurrent action with the county board of education of the county wherein the independent district is located, transfer to the county district any portion of the area of the independent district outside the corporate limits of the city.

Provided, however, that no transfer shall be made if such transfer would reduce the number of census pupils of the independent district to less than 250 in number.

Ordered that said bill be printed and referred to the Committee on Education.

H. B. 28. An Act relating to the qualification of non-elective peace officers, removal of persons disqualified, providing penalties for the violation of this Act and repealing inconsistent Acts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. No person shall be eligible for appointment, or if already appointed to continue to serve as a deputy sheriff, deputy constable, patrol or other non-elective peace officer or deputy peace officer—

(a) Who is not a citizen of the United States;

(b) Who is not twenty-one years of age or over;

(c) Who has not resided in the county wherein he is appointed to serve for a period of at least two years;

(d) Who has ever been convicted of or who is under indictment for a crime involving moral turpitude under the laws of this Commonwealth, or of any other state or of the United States;

(e) Who has within a period of two years hired himself out or performed any service as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or received any fee or compensation whatever from any private source for acting as a detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute.

§ 2. No person shall be permitted to qualify, and no person already serving shall continue to serve as a deputy sheriff, deputy constable, patrol or other non-elective peace officer or deputy peace officer unless and until such person shall file his photograph with the clerk of the county court of the county

wherein he is appointed to serve together with an affidavit of such person setting forth the following:

(a) His full name, age and residence address;

(b) That he is a citizen of the United States and twenty-one years of age or over;

(c) That he has resided in the county for a period of at least two years immediately preceding the filing of such affidavit;

(d) That he has never been convicted of and is not under indictment for a crime involving moral turpitude under the laws of this Commonwealth, or of any other state or of the United States;

(e) That he has not for a period of two years immediately preceding the filing of such affidavit hired himself out or performed any service as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or received any fee or compensation whatever from any private source for acting as a detective, policemen, guard, peace officer or otherwise as an active participant in any labor dispute or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute.

§ 3. Any false statement contained in any such affidavit as is required by the provisions of Section 2 of this Act shall constitute perjury and shall be punished as such.

§ 4. The photograph of any such person so filed with the clerk of the county court shall constitute a public record.

§ 5. Any person who shall exercise any of the functions of a non-elective peace officer or deputy peace officer in violation of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$100.00 nor more than \$500.00, or imprisoned in the county jail for a term not exceeding six months, or both, in the discretion of the court.

§ 6. Any person serving as a non-elective peace officer or deputy peace officer in violation of the provisions of this Act shall be subject to removal. The circuit court of the county wherein such person is serving and the circuit court of Franklin County shall have concurrent jurisdiction to hear and determine all proceedings for the removal of any such person, which proceedings shall be in equity, and the procedure shall be as follows: The Commonwealth's attorney of the judicial district or the county attorney of the county in which such person shall be serving, the attorney general of the state, or any three or more citizens of said county wherein such person shall be serving may file a petition in equity setting up the facts constituting a violation of the provisions of this Act. A copy of such petition shall be served upon the person complained against, who shall have ten days in which to answer the allegations thereof, if he shall desire to do so. Thereafter such proceedings shall be heard and determined by the court, either in term or in vacation according to the ordinary rules governing proceedings in equity; provided, that in every case the court or the judge thereof in vacation shall render a final judgment therein within sixty days from the date of the filing of the petition; provided further, that the court or judge hearing the case may for good cause shown extend the time for the final hearing thereof, but in no case beyond ninety days from the date of the filing of the petition. Such proceedings if instituted by the Commonwealth's attorney, county attorney or attorney general of the state shall be in the name of the Commonwealth, and if instituted by three or more citizens of the county, as herein provided, shall be in the name of such citizens as plaintiffs. Whenever it shall appear upon final hearing upon any such petition that any such person serving as a non-elective peace officer or deputy peace officer is disqualified under the provisions of this Act, the court upon ascertaining such fact shall enter an order or judgment forthwith removing such person from office as such non-elective peace officer or deputy peace officer.

§ 7. All acts and parts of acts inconsistent herewith are hereby repealed; provided nothing in this Act shall be construed to repeal sections 3766a-6 to 3766a-13, inclusive, of Carroll's Kentucky Statutes, 1936 edition, or any application thereof.

Ordered that said bill be printed and referred to the Committee on Kentucky Statutes No. 1.

H. Res. 33. A Concurrent Resolution providing for the creation of a commission to plan for a proper observance of the One Hundred and Fiftieth Anniversary of the admission of Kentucky into the Union.

Said resolution is as follows, viz.:

Whereas, 1942 will mark the one hundred and fiftieth anniversary of the admission of the Commonwealth of Kentucky as a State in the United States of America; and

Whereas, a proper observance of this important event should be made in the Commonwealth in 1942; and

Whereas, the Kentucky State Historical Society has, by resolution, of date June 7, 1937, recommended the creation by the General Assembly of a Commission as contemplated herein:

*Therefore be it Resolved by the General Assembly of the Commonwealth of Kentucky, the Senate and the House of Representatives concurring:*

That the Commonwealth of Kentucky do participate in the celebration of said anniversary, and for the purpose of preparing a program for such celebration a State Commission of the Commonwealth of Kentucky is hereby established, the same to be known as the Kentucky Sesquicentennial Commission and to be composed of nine (9) citizens of the Commonwealth appointed by the Governor of the Commonwealth of Kentucky, with the Governor an ex-officio member of the same. Said Commission shall serve without compensation.



In the event said Commission should recommend to the General Assembly the appropriation of public funds for the financing in whole or in part of any observance of the one hundred and fiftieth anniversary of Kentucky's admission as a State into the United States of America, the Commission shall also recommend to the General Assembly at the same time revenue measures which will raise the amount of the proposed appropriation.

The Commission shall consider every phase of the history of the Commonwealth and its varied resources in the performance of their duties, and shall report their findings to the General Assembly when desirable.

The Commission shall invite the cooperation of the Kentucky State Historical Society, the Filson Club, and other historical organizations existing in the Commonwealth in planning for said sesquicentennial celebration.

Ordered that said resolution be printed and referred to the Committee on Revenue and Taxation.

Senator Rogers moved that the rules be suspended and the privilege of the floor be extended Mrs. Joe Anderson, Miss Jo Jo Anderson, and Messrs. Dan Capito, Stanley Schnieder and Edward Cross.

Said motion was unanimously agreed to.

Senator Crockett moved that the rules be suspended and the privilege of the floor be extended to Mr. S. A. Farris.

Said motion was unanimously agreed to.

Senator Blake moved that the rules be suspended and the privilege of the floor be extended to Mr. and Mrs. William Layson and Mrs. Vincent Layson.

Said motion was unanimously agreed to.

Senator E. C. Moore moved that the rules be suspended for the purpose of the introduction of bills.

Said motion was agreed to by a majority of the members elected.

Whereupon, a bill of the following title was introduced, ordered printed and referred, as follows, viz.:

By Senator E. C. Moore.

S. B. 94. An Act authorizing the Governor and the administrative departments and independent agencies of the Commonwealth of Kentucky to apply for, receive and expend any Federal funds so received; providing that any and all Federal funds received or which hereafter may be received shall not be embraced within the limitations of any biennial appropriation act, and further prescribing the powers and duties of the Governor and other administrative departments and independent agencies in relation thereto.

Said bill is as follows, viz.:

Whereas, the Commonwealth of Kentucky, acting by and through the Governor and other administrative departments and independent agencies has heretofore applied to the proper Federal agencies for grants of Federal funds for uses and purposes authorized by the laws of the United States and the laws of the Commonwealth of Kentucky; and,

Whereas, it is the desire of the General Assembly of the Commonwealth of Kentucky that the Governor and the administrative departments and independent agencies of the Commonwealth of Kentucky be fully authorized and empowered to procure for the Commonwealth of Kentucky full benefit of the provisions of the Federal laws now enacted and which may hereafter be enacted appropriating Federal funds

or authorizing the grant or use of Federal funds for the construction, improvement, maintenance and repair of public property and for other public purposes beneficial to the Commonwealth of Kentucky; and,

Whereas, the Department of Welfare and the Governor of the Commonwealth of Kentucky have heretofore applied for Federal funds to be used and expended in connection with the acquisition of real estate and the construction of a new State Reformatory and eleemosynary institutions in the Commonwealth of Kentucky; and,

Whereas, an authorized department or agency of the United States Government has approved one or more of said applications, conditioned in part upon express authority, ratification and approval of the General Assembly of Kentucky for the receipt and expenditure of Federal funds as an appropriation in addition to and supplementing the appropriations contained in the biennial appropriation act enacted by the General Assembly of Kentucky in 1936;

*Now, therefore, be it enacted by the General Assembly of the Commonwealth of Kentucky, that:*

§ 1. The Governor and the administrative departments and independent agencies of the Commonwealth of Kentucky hereby are authorized and empowered to apply for, receive, accept and expend any Federal funds that may have been procured or that may hereafter be procured from the United States of America, or any department or agency thereof. All such Federal funds heretofore procured and all such funds hereafter procured shall be expended for the purposes for which obtained, and the expenditure thereof hereby is authorized and said funds hereby appropriated for such uses and purposes, in addition to such State funds as have heretofore or may hereafter be appropriated by the General Assembly of the Commonwealth of Kentucky to any administrative department or independent agency. Any limitation of amount contained in the biennial appropriation act of 1936, or the

biennial appropriation act of 1938, and any subsequent biennial appropriation act, shall not be construed as including such Federal funds heretofore or hereafter procured.

§ 2. The Governor and each administrative department and independent agency with the approval of the Governor, hereby are authorized and empowered to enter into contracts and agreements with the United States Government or any department or agency thereof, and to do all other things necessary to fully carry out the powers and duties aforesaid as may be required by any official, Act of Congress or by rules, regulations or rulings of the President of the United States or of any department or agency of the United States relating to the grant or expenditure of Federal funds in the Commonwealth of Kentucky for any of the uses or purposes aforesaid.

§ 3. The Department of Welfare hereby is authorized to accept from the United States of America or from any of its departments or agencies, money under any grant or agreement heretofore or hereafter entered into by the Commonwealth of Kentucky or the Department of Welfare, and to expend the funds so granted or which may be so granted, in addition to any and all other funds heretofore or hereafter appropriated to the Department of Welfare by the General Assembly of Kentucky. The Department of Welfare hereby is authorized to expend any Federal funds heretofore received or which may hereafter be received, for the purchase of land, for the erection of buildings for the use of the Department of Welfare, for the confinement of convicts or for the construction of hospitals for the insane, feebleminded or epileptic wards of the State, or any other authorized purposes for which said funds may have been granted or may hereafter be granted.

§ 4. Notwithstanding any other provisions of the laws of the Commonwealth of Kentucky, any unexpended balance of Federal funds or funds received from the United States of America, or any department or agency thereof, in any fiscal

year, shall be carried forward and credited to the department or agency for whose credit or for whose benefit such funds were received, and shall be available for expenditure during the next or any succeeding fiscal year. The Legislative intent of the General Assembly of the Commonwealth of Kentucky hereby is declared to be that any appropriation herein made of such Federal funds shall constitute a continuing appropriation, and that any restrictions now imposed by law relating to fiscal years shall not apply to any such funds received or which may be received from the United States of America or any department or agency thereof.

§ 5. Whereas, the Commonwealth of Kentucky, acting by and through the Department of Welfare is now engaged and is about to further engage in the construction of buildings and improvements to be used for the confinement of convicts and for the hospitalization and housing of the insane, feeble-minded and epileptic wards of the State; and, whereas, it is deemed by the General Assembly that it is necessary and advisable that the powers and duties prescribed in this Act be made effective immediately in order that the Commonwealth of Kentucky may receive full benefits of Federal funds and grants; an emergency hereby is declared to exist and this Act shall be effective immediately upon its passage and approval by the Governor.

§ 6. All laws or parts of laws in conflict herewith, to the extent of such conflict hereby are repealed.

To Committee on Appropriations.

Senator Gilbert moved that the rules be suspended and the Chief Clerk of the Senate be directed to convey and deliver to the House a bill of the following title, viz.:

H. B. 54. (For title see S. J. of today, ante.)

Said motion was agreed to.



Senator Gilbert moved that the Senate do now recess for fifteen minutes.

Said motion was agreed to.

And then the Senate recessed.

After a time the President of the Senate resumed the Chair and called the Senate to order.

Senator T. O. Turner moved that the rules be suspended for the purpose of allowing committees to report.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator T. O. Turner of the Committee on Kentucky Statutes No. 1, to which same had been previously referred, reported a bill of the following title, viz.:

H. B. 28. An Act relating to the qualification of non-elective peace officers, removal of persons disqualified, providing penalties for the violation of this Act and repealing inconsistent Acts.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time, in accordance with the provision of the Constitution, and ordered placed in the Calendar.

Senator E. C. Moore of the Committee on Appropriations, to which same had been previously referred, reported a bill and resolutions of the following titles, viz.:

S. B. 94. An Act authorizing the Governor and the administrative departments and independent agencies of the

Commonwealth of Kentucky to apply for, receive and expend any Federal funds so received; providing that any and all Federal funds received or which hereafter may be received shall not be embraced within the limitations of any biennial appropriation act, and further prescribing the powers and duties of the Governor and other administrative departments and independent agencies in relation thereto.

H. Res. 4. A resolution providing for the purchase of "The Legislative Digest" adopted at the regular session of the Legislature of 1912 and each succeeding session since that date as the official publication for the General Assembly, providing for the distribution thereof and for payment therefor.

H. Res. 1. Resolution appropriating the sum of \$750.00 for a contingent fund for the Clerk of the Senate, and appropriating the sum of \$750.00 for a contingent fund for the Clerk of the House.

With the expression of opinion that each of said resolutions and said bill should pass.

Whereupon, each of said last named resolutions and said last named bill, in accordance with the provision of the Constitution, were read at length for the first time and ordered placed in the Calendar.

#### REPORT OF ENROLLMENT COMMITTEE

Senator Dawson of the Committee on Enrollment reported that said Committee had examined and found to be correctly enrolled a bill of the following title, viz.:

H. B. 54. (For title see S. J. of today, ante.)

Whereupon, all other business was suspended and said bill was read at length and compared in open session and

found to be correctly enrolled; and, thereupon, the President of the Senate, in open session, and in the presence of the Senate, affixed his signature thereto.

Ordered that the Enrolling Clerk of the Senate deliver said bill to the Enrolling Clerk of the House.

Senator Gilbert moved that the Senate do now adjourn to meet again at eleven o'clock, a. m., Friday, January 21st, 1938.

Said motion was agreed to.

And then the Senate adjourned.

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#### FRIDAY, JANUARY 21, 1938.

The Senate convened and was called to order by the Honorable Keen Johnson, President of the Senate and Lieutenant Governor of the Commonwealth.

The Senate was opened with prayer by the Reverend John T. Galloway, pastor of the First Presbyterian Church, Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	John M. Hall	John A. Sugg, Jr.
Aubrey Barbour	J. Joseph Hettinger	Jos. P. Tackett
H. Stanley Blake	Stanley B. Mayer	Ervine Turner
Ollie J. Bowen	Strother Melton	Thomas O. Turner
Leer Buckley	E. C. Moore	E. T. Wesley
Dr. D. H. Bush	J. Lee Moore	Otis White
Waller A. Crockett	Ray B. Moss	O. C. Whitfield
Edwin C. Dawson	James C. Rogers	B. M. Williams
Lee Gibson	Ira W. See	J. M. Wolfenbarger
Ralph Gilbert	Paul L. Sidebottom	

Senator Dawson moved that the reading of the Journal of the proceedings of Thursday, January 20th, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.

Senator Mayer moved that the rules be suspended and the privilege of the floor be extended to Mr. Homer McClellan of Louisville, Kentucky.

Said motion was unanimously agreed to.

Senator Williams moved that the rules be suspended and the privilege of the floor be extended to Mr. J. M. Alverson, Jr., of Harlan, Kentucky.

Said motion was unanimously agreed to.

Senator Tackett moved that the rules be suspended and the privilege of the floor be extended to Mr. Charles Tackett of Virgil, Kentucky.

Said motion was unanimously agreed to.

Senator Gibson moved that the rules be suspended and the privilege of the floor be extended to Mr. Crawford Johnson of Greenville, Kentucky.

Said motion was unanimously agreed to.

#### INTRODUCTION OF BILLS

Bills and resolutions of the following titles were introduced, ordered printed and referred as follows, viz.:

By Senator White.

S. B. 95. An Act amending and re-enacting Section 2242

of Carroll's Kentucky Statutes, 1936 Revision, relating to the compensation of jury commissioners.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That, Section 2242 of Kentucky Statutes, 1936 revision, be amended and when so amended shall read as follows:

Section 2242. Time commissioners may remain in session; compensation; reconvening; not to be appointed succeeding year.—The Commissioners shall remain in session not longer than five days, except that in counties having a population of over fifty thousand, they may remain in session ten days, and shall each receive for his service three (\$3.00) dollars per day for the time actually engaged, the claim for which shall be certified by the judge appointing him and paid by the state treasurer upon the voucher of the auditor of the state: Provided, however, That counties containing a city of the first class the board of magistrates or the fiscal court of any such county may supplement the compensation of the commissioners as paid by the state by allowing and paying to each of said commissioners not exceeding three dollars (\$3.00) per day for the time actually engaged, the whole compensation received by any commissioner not to exceed the sum of fifty dollars (\$50.00) in any one year. If for any cause, either of the persons selected as a commissioner cannot serve, or having commenced can not complete his labors, the judge appointing him may appoint another person of like qualifications in his place. If, at any time, it becomes apparent to the judge of any court that the names in the drum wheel case for said court will be exhausted before the next annual selection of commissioners, the judge, by an order entered of record, shall reconvene the commissioners, who shall select and place in said drum or wheel case, as heretofore provided, the number of names of qualified grand and petit jurors stated in the order of the judge reconvening



them, and the judge may, if he deem it necessary, require by an order of the court the attendance of one of said commissioners at the time that the judge shall make up the lists of juries for his court, as hereinafter provided. Neither of them shall be appointed for the next year.

To Committee on Appropriations.

By Senator White.

S. B. 96. An Act amending and re-enacting Section 2097 of Kentucky Statutes, 1936 Revision, relating to marriage.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That

Section 2097 of Carroll's Kentucky Statutes 1936 revision, be amended and when so amended shall read as follows:

Section 2097. Marriage, between what persons prohibited and void.—Marriage, is prohibited and declared void:

1. With an idiot or lunatic.
2. Between a white person and a negro or mulatto.
3. Where there is a husband or wife living, from whom the person marrying has not been divorced.
4. When not solemnized or contracted in the presence of an authorized person or society.
5. When at the time of marriage, the male is under *eighteen* and the female under *sixteen* years of age.

To Committee on Child Welfare and Social Work.

By Senator Gilbert.

S. B. 97. An Act amending Section 774 Kentucky Stat-

utes, Baldwin's 1936 Edition, relating to safety appliances at public railroad crossings.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 774, Baldwin's 1936 Edition of the Kentucky Statutes, be and the same is hereby repealed and re-enacted, so that when re-enacted, said law shall read as follows: Whenever, in the opinion of the Railroad Commission, the public interest requires that a gate or some equally effective appliance be erected or maintained, or a flagman stationed at any crossing of this Commonwealth, they shall give the superintendent or manager of the railroad written notice that same is required, and the company shall within the time prescribed by the Commission, erect and maintain at such crossing the character of safety appliance directed by the Commission, and keep a man in charge of the same during such hours as they may designate, or keep a flagman at such crossing during such hours as they may require. And the Railroad Commission may authorize the discontinuance of such gate, other safety appliance or flagman whenever, in their judgment, the public interest no longer requires the same.

To Committee on Common Carriers and Commerce.

By Senator Gilbert.

S. B. 98. An Act amending Section 777, Kentucky Statutes, Baldwin's 1936 Edition, relating to the reporting of accidents to the Railroad Commission.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 777 of Baldwin's 1936 Edition of Kentucky

Statutes be and the same is hereby repealed, and re-enacted, so that when re-enacted, said law shall read as follows:

Notice of every derailment, collision or other accidents which may occur, resulting in injury or loss of life to any person, shall be given within Twenty-four (24) Hours thereafter, by the company operating the road on which the accident occurred, to the Railroad Commission, Frankfort, Kentucky, and such company shall furnish the Commission all information requested by it concerning the cause of the accident, and the Commission shall have the authority to investigate all such accidents and to take any action necessary to develop the facts and make its report. Such report to be made public in such manner as the Commission deems proper.

To Committee on Common Carriers and Commerce.

By Senator Mayer.

S. B. 99. An Act to limit the length of trains, to provide for reports to the State Railroad Commission, to prescribe penalties, to provide for enforcement by the State Railroad Commission, and to provide for repeal.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

#### DEFINITIONS

§ 1. When used in this Act and for the purpose of this Act—The term “carrier” shall mean a common carrier by railroad, or partly by railroad and partly by water, and any receiver or any other individual or body, judicial or otherwise, when in possession of the business of carriers covered by this Act, excluding street, suburban, and interurban elec-

tric railways, unless operated as a part of the general railroad system of transportation.

The term "locomotive" means any self-propelled unit operated by any form of energy or power, whether produced thereon or furnished from any outside source, and adapted for use in moving cars upon rails, or for the transportation of passengers and/or freight or property.

The term "passenger train" means any train composed of one or more locomotives with cars constructed for the purpose of transporting passengers, mail, express, or a combination or combinations of any of the same.

The term "freight train" means any train composed of one or more locomotives with cars constructed for the purpose of transporting freight or other property not specifically referred to in the above definition of a passenger train.

The term "mixed train" means any train composed of one or more locomotives with, at one and the same time, cars of the type set forth under the definition of a passenger train above and cars of the type set forth under the definition of a freight train above.

§ 2. It shall be unlawful for any carrier to operate or permit to be operated over any line of railroad owned or operated by it any freight train more than one-half mile in length but in no event consisting of more than seventy cars, exclusive of caboose.

§ 3. It shall be unlawful for any carrier to operate or permit to be operated over any line of railroad owned or operated by it any passenger train consisting of more than fourteen cars.

§ 4. It shall be unlawful for any carrier to operate or permit to be operated over any line of railroad owned or operated by it any mixed train more than one-half mile in length but in no event consisting of more than seventy cars in all, or of which more than fourteen are cars constructed for the purpose of transporting passengers, mail, express, or a combination or combinations of any of the same.

§ 5. In case of locomotive failure a carrier shall have the right to operate a train of greater car length than provided in this Act until such train arrives at the next terminal or the next point at which another locomotive can be procured.

§ 6. The State Railroad Commission shall require every carrier subject to this Act to make and file with the State Railroad Commission, at its office in Frankfort, Kentucky, a monthly report under such rules and regulations as may be prescribed by said Commission, and under oath, of all operations of trains of greater car length than provided in Sections 2, 3, and 4 of this Act. Such report shall state the reasons and causes therefor, the points to and from which said operation was carried on, and all other circumstances connected therewith.

§ 7. That any carrier subject to this Act violating any of the provisions thereof shall be liable to a penalty of not less than one hundred dollars nor more than three hundred dollars, and confined in the County Jail for not less than thirty, nor more than ninety days, for each and every violation, said fine or fines to be recovered in a suit or suits to be brought by the Attorney General in the Circuit Court of Franklin County, State of Kentucky, and it shall be the duty of such Attorney General to bring any such suit upon satisfactory information being lodged with him of such violations having occurred, but no such suit shall be brought after the expiration of two years from the date of such violations; and it shall be the duty of the State Railroad Commission to lodge with the Attorney General information of any such violations that may come to its knowledge. In all prosecutions under this Act the carrier shall be deemed to have knowledge of all acts of all of its officers and agents.

§ 8. It shall be the duty of the State Railroad Commission to execute and enforce the provisions of this Act, and all powers granted to the State Railroad Commission are hereby extended to it in the execution of this Act.



§ 9. All laws or parts of laws in conflict herewith, are hereby repealed to the extent of such conflict.

To Committee on Common Carriers and Commerce.

By Senator See.

S. B. 100. An Act to amend and re-enact Section 3721a, Carroll's Kentucky Statutes, pertaining to jurisdiction of Notary Publics.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

A notary public appointed for any county of the state, upon filing in the county clerk's office in any county in the state, his autograph signature and a certificate of the county clerk of the county for which he was appointed, setting forth the fact of his appointment and qualification as such notary public, and paying to said county clerk, where said signature and certificate are filed, a fee of one dollar, may exercise all the functions of his office, in the county in which such autograph signature and certificate are filed with the same effect in all respects as if the same were exercised in the county in which he resides and for which he was appointed. The county clerk of a county in whose office any notary public has so filed his autograph signature and such certificate shall, when so requested, subjoin to any certificate of proof or acknowledgement signed by such notary a certificate under his hand and seal, stating that such notary public has filed a certificate of his appointment and qualifications with his autograph signature in his office, and was at the time of taking such proof or acknowledgment duly authorized to take the same; that he is well acquainted with the handwriting of such notary public and believes that the signature to such proof or acknowledgment is genuine, and thereupon the

instrument so proved or acknowledged and certified shall be entitled to be read in evidence or to be recorded in any of the counties of this state in respect to which a certificate of a county clerk may be necessary for either purpose.

To Committee on Courts and Legal Procedure.

By Senator J. Lee Moore.

S. B. 101. An Act to amend the Constitution of the Commonwealth of Kentucky so as to authorize the Legislature to provide relief or pension for the needy blind.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

1. That upon the concurrence of three-fifths of all members elected to each house, the yeas and nays being taken thereon and entered in full in their respective journals, the Constitution of the Commonwealth of Kentucky may be and is amended and revised so that it may read as follows:

2. That the Legislature of the Commonwealth of Kentucky may, and is, permitted and authorized to provide relief or pension for the needy blind who reside in the Commonwealth of Kentucky.

3. This amendment shall be submitted to the voters of the State for their ratification, adoption, or rejection at the time and in the manner provided for under Section 256 of the Constitution of Kentucky, and under Section 1459 of the Edition of the Kentucky Statutes compiled and edited by John D. Carroll and issued in 1922.

To Committee on Constitutional Amendments.

By Senator Gibson.

S. B. 102. An Act to repeal, amend and re-enact Sections 165a-12, 593 and 594 of Carroll's Kentucky Statutes, 1936 Edition, relating to the publication of statement of financial condition of bank, who shall sign statement, and penalty for failure to make or publish report.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Sections one hundred sixty-five a-twelve (165a-12), five hundred ninety-three (593) and five hundred ninety-four (594) of Carroll's Kentucky Statutes, one thousand nine hundred thirty-six (1936) Edition, be and hereby are repealed, amended and re-enacted so that, when thus re-enacted, the reading shall be as follows, to-wit:

Section one hundred sixty-five a-twelve (165a-12). Every bank shall within ten days after call made upon said institution by the *Director of the Division of Banking of the Department of Business Regulation*, publish a condensed statement of its financial condition, at the close of business on the date named in said call by said *Director of the Division of Banking*, which call may be made by him at any time he desires, and he shall make at least two calls in each year. Said condensed statement made on a form to be furnished by the *Director of the Division of Banking*, shall be published in some newspaper of general circulation, published in the city or town where its principal place of business is located, and, if no paper is published in such town, then in some newspaper of general circulation in the county where its principal place of business is located. Such published statement shall show the total amount of loans, the total amount of overdrafts, the total amount invested in bonds and other securities, the total

amount due from banks, the total amount of checks and other cash items, the total amount of cash on hand, capital paid in, surplus fund; undivided profits, less expense and taxes paid; due to other banks; individual deposits subject to check; demand certificates of deposit, time deposits; certified checks, cashier's checks outstanding; and such other items as will show the actual financial condition of the bank making the report, and a copy certified to by the publisher shall be sent to the *Director of the Division of Banking* as a part of its next succeeding report. *The reports shall be signed and sworn to by the president, vice president or cashier, and signed by at least three of the directors. Any bank failing to make to the Director of the Division of Banking any of the reports required within five days after the same is due or demanded, or failing to have the same published as required, shall, for each failure, pay a penalty of two hundred dollars, to be sued for and collected by the Director of the Division of Banking, in the name of the Commonwealth, and accounted for by him.*

To Committee on Printing.

By Senator Gibson.

S. B. 103. An Act to repeal and re-enact, as amended, Section 165a-20, Kentucky Statutes, Carroll's Edition 1936, relating to the powers of the Director of the Division of Banking in passing upon applications for the approval of articles of incorporation of any proposed bank, trust company, combined bank and trust company, or any trust, banking and title insurance company, in regard to the necessity and convenience of such institutions, and amending said section so as to provide for the investigation of certain additional phases of such proposed institutions, and for the refusal of articles of incorporation of such institutions by the Director of the Division of Banking, and to require each director

thereof to own in his own right shares of a par value of not less than \$500.00.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

(1) That Section 165a-20 Kentucky Statutes, Carroll's Edition 1936, is hereby repealed, amended and reenacted to read as follows:

“Before filing the articles of incorporation of any proposed bank, trust company, combined bank and trust company, or *any trust, banking or title insurance company*, in the office of the county clerk in the county in which it is to be located and do business, and with the secretary of state, as is required by law, the incorporators shall present a copy of their proposed articles of incorporation to the *Director of the Division of Banking* for his approval or disapproval, and when such articles are approved in writing *by him*, the incorporators may then proceed to the filing, and having same recorded. Upon presentation of said articles of incorporation to the *Director*, he shall carefully examine same, and shall make diligent inquiry and investigation as to the financial standing and moral character and capability of each of the incorporators and shall require each incorporator to furnish satisfactory proof that each is worth at least double the amount of the par value of his stock subscription, above all exemptions, obligations and liabilities. *The Director of the Division of Banking shall further determine by investigation of the facts and conditions:*

(1) *That the proposed bank or trust company is being formed for legitimate purposes;*

(2) *That the proposed Directors and officials are competent to successfully manage a banking or trust business;*

(3) *That there is reasonable assurance of sufficient volume of business for the proposed bank or trust company to be succesesful;*



(4) *That the public convenience and advantage will be promoted by the opening of the proposed bank or trust company.*

*After the Director of the Division of Banking shall have satisfied himself by such investigation whether it is expedient and desirable to permit such proposed corporation to engage in business, he shall approve or disapprove in writing such Articles of Incorporation. If such articles be approved, then the county clerk and the secretary of state, respectively, may receive said articles for filing and recording. Upon the filing and recording of said articles, and fully complying with all laws relating to the organization of such financial institutions, and such general corporation laws as are applicable, said institutions shall be deemed organized for the purpose set out in its articles of incorporation, but before such financial institutions shall transact any banking or trust business, they shall file with said Director a written oath which shall be taken by each and every officer and director of the bank, trust company, or combined bank and trust company, which oath shall be in substance to the effect that such officer is then a citizen of the United States, and the Commonwealth of Kentucky unless he be a non-resident, then place of residence must be stated; that he will well and truly discharge the duties of his office, and honestly and efficiently administer the affairs of the institution, so far as the duties of his office require; that he will uphold the laws of the Commonwealth, and particularly the banking laws; that he is the owner in good faith and in his own right of shares representing at least \$500.00 par value, unhypothecated or pledged on a debt, of the capital stock of the corporation of which he is such officer and director; said oath shall be taken before any officer empowered by law to administer same, and the same oath shall be taken upon the election of any officer and/or director to office in any banking and/or trust institution, and such original and subsequent oaths shall be transmitted to the Director of the*

*Division of Banking* immediately upon its execution, and shall be by the *Director* filed and preserved.

Upon the filing of such oath, if the *Director of the Division of Banking* be then satisfied that all requisite laws have been complied with he shall issue to the institution a certificate which will entitle it to at once transact the business for which it was organized, setting out therein that it had subscribed and paid in the required capital and otherwise fully complied with all pertinent laws and regulations''.

All laws or parts of laws in conflict herewith are hereby repealed.

To Committee on Banks and Trust Companies.

By Senator Melton.

S. Res. 23. A Concurrent Resolution memorializing the Congress of the United States to provide for the equal treatment in income and death taxes of the citizens of the several states and to thus avoid the discrimination in favor of those states having systems of community property.

Said resolution is as follows, viz.:

WHEREAS, husbands and wives in those states having a system of community property are permitted to file separate federal income tax returns and report and pay tax, each on one-half of the income from the community property and,

WHEREAS, the personal representative is required to report and pay federal death taxes on only one-half of the community property in the event either spouse shall predecease the other and

WHEREAS, this effects an unconscionable discrimination against the citizens of Kentucky, of thirty-nine other states, the territories and the District of Columbia, now therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the Congress of the United States be memorialized to enact legislation which will afford the citizens of each state, territory, possession and the District of Columbia, equal treatment in the matter of income and death taxes irrespective of the system of property ownership prevailing in such states, and

Be it Further Resolved, that the Chief Clerk of the Senate forward one copy each of this Resolution to the President of the United States, to the President of the Senate, to the Speaker of the House of Representatives of the United States, to the Senators and Representatives from Kentucky in the United States Congress, to the Secretary of the Treasury of the United States, and to the Chief of Staff of the Joint Committee on Internal Revenue Taxation.

To Committee on Executive Affairs and Federal Relations.

By Senator Melton.

S. Res. 24. A Concurrent Resolution memorializing the Congress of the United States to provide for the taxation by the several states of salaries paid from the proceeds of grants-in-aid.

Said resolution is as follows, viz.:

WHEREAS, a taxpayer receiving compensation consisting in part of the proceeds from grants-in-aid by Congress to the states is unable to determine in most instances whether such income is to be reported to the states for taxation and thus becomes subject to penalties where he fails to so report income which is taxable and should have been reported, and

WHEREAS, taxpayers receiving compensation consisting in part of proceeds from certain grants-in-aid are unfairly

discriminated against in favor of those whose compensation consists in part of proceeds from other grants-in-aid, now therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the Congress of the United States be memorialized to enact legislation permitting the states to tax that portion of the income of individuals consisting of salaries paid from the proceeds of grants-in-aid by Congress to the states, irrespective of whether such proceeds are commingled with state funds, and

Be it Further Resolved, that the Chief Clerk of the Senate forward one copy each of this Resolution to the President of the United States, to the President of the Senate, to the Speaker of the House of Representatives of the United States, to the Senators and Representatives from Kentucky in the United States Congress, to the Secretary of the Treasury of the United States and to the Chief of Staff of the Joint Committee on Internal Revenue Taxation.

To Committee on Executive Affairs and Federal Relations.

By Senator Melton.

S. Res. 25. A Concurrent Resolution memorializing the Congress of the United States to make available to the states confidential information for tax administration purposes on a reciprocal basis.

Said resolution is as follows, viz.:

WHEREAS, the taxpayer is put to the inconvenience of furnishing the same data respecting income and related matter to both federal and state authorities, and

WHEREAS, it is believed that considerable relief would be

afforded him if the information could be interchanged between federal and state authorities, and

WHEREAS, the work of both federal and state tax authorities would be materially facilitated by such interchange, now therefore

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the Congress of the United States be memorialized to enact legislation making available to the states for tax administration purposes, irrespective of the type of tax system employed by the states and provided the states make similar information available to the Federal Authorities, confidential information respecting the income and other related matter of individuals, partnerships, co-partnerships, trusts, associations, corporations and other persons who may be liable to taxes in the respective states, and

Be it Further Resolved, that this information shall be furnished without the requirement that the state specify the particular use to which this information shall be put, other than that it shall be kept confidential, and

Be it Further Resolved, that the Chief Clerk of the Senate forward one copy each of this Resolution to the President of the United States, to the President of the Senate, to the Speaker of the House of Representatives of the United States, to the Senators and Representatives from Kentucky in the United States Congress, to the Secretary of the Treasury of the United States and to the Chief of Staff of the Joint Committee on Internal Revenue Taxation.

To Committee on Executive Affairs and Federal Relations.

#### CALENDAR

The Senate took up for consideration from the Calendar bills and resolutions of the following titles, viz.:

S. B. 94. An Act authorizing the Governor and the



administrative departments and independent agencies of the Commonwealth of Kentucky to apply for, receive and expend any Federal funds so received; providing that any and all Federal funds received or which hereafter may be received shall not be embraced within the limitations of any biennial appropriation act, and further prescribing the powers and duties of the Governor and other administrative departments and independent agencies in relation thereto.

H. B. 28. An Act relating to the qualification of non-elective peace officers, removal of persons disqualified, providing penalties for violation of this Act and repealing inconsistent Acts.

H. Res. 4. A resolution providing for the purchase of "The Legislative Digest" adopted at the regular session of the Legislature of 1912 and each succeeding session since that date as the official publication for the General Assembly, providing for the distribution thereof and for payment therefor.

H. Res. 1. Resolution appropriating the sum of \$750.00 for a contingent fund for the Clerk of the Senate, and appropriating the sum of \$750.00 for a contingent fund for the Clerk of the House.

Senator Gilbert moved that the Constitutional provision as to the second reading at length of said bills and resolutions be dispensed with and the same be read for the second time by their titles only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the second reading at length of said bills and resolutions being dis-

pensed with, same were read for the second time by their titles only and

Ordered placed in the Orders of the Day.

### ORDERS OF THE DAY

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

H. B. 27. An Act relating to peace officers and prohibiting compensation of sheriffs, deputy sheriffs, constables, deputy constables, patrols and other peace officers and deputy peace officers by private persons, firms or corporations; providing for the removal of such officers so privately compensated, and for the removal of sheriffs, constables and peace officers for neglect of duty in failing to remove deputies so privately compensated; providing for the appointment and compensation of special local peace officers; and providing penalties for the violation of this Act.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. No sheriff, deputy sheriff, constable, deputy constable, patrol, or other peace officer or deputy peace officer shall receive any compensation or remuneration, directly or indirectly, from any person, firm or corporation, for the performance of any service or duty. Any sheriff, deputy sheriff, constable, deputy constable, patrol, or other peace officer, or deputy peace officer who shall receive any compensation or remuneration directly or indirectly from any person, firm or corporation for the performance of any service or duty shall be subject to removal from office, under the provisions of this act, insofar as the same may be done in conformity to the provisions of section two hundred twenty-seven of the constitution of this state.

The officers and deputies named in this section shall receive for the performance of their services and duties only such compensation or remuneration as may be regularly provided and paid out of the public funds to the amount and in the manner provided by law. Any donations made by any person, firm or corporation to any governmental unit or officer thereof shall not constitute public funds within the meaning of this section.

§ 2. No sheriff, deputy sheriff, constable, deputy constable, patrol or other peace officer, or deputy peace officer, shall, while in office, act in any private employment as guard or watchman or in any other similar private employment.

§ 3. No sheriff, constable or other peace officer shall appoint or continue the appointment of any deputy contrary to the provisions of this act. Whenever it shall be made to appear by the affidavit of two citizens, taxpayers of the county, filed with any such sheriff, constable or other peace officer, that there is reasonable cause to believe that any of their deputies is, or are, receiving compensation from a private source or sources contrary to the provisions of this act, it shall be the duty of such sheriff, constable or other peace officer forthwith to investigate the charges contained in such affidavit, and upon finding such charges to be true, it shall be the duty of such sheriff, constable or other peace officer forthwith to remove any such deputy from office, and failure so to do shall constitute neglect of duty on the part of such sheriff, constable or other peace officer, and such sheriff, constable or other peace officer shall thereupon be subject to removal from office under the provisions of this act.

§ 4. Circuit Courts shall have jurisdiction to hear and determine all proceedings for the removal of officers and their deputies under the provisions of this act. All such proceedings shall be in equity, and the procedure shall be as follows: The commonwealth's attorney of the judicial district, the county attorney of the county in which such sheriff, deputy sheriff, constable, deputy constable, patrol or other peace

officer or deputy peace officer shall be serving, the attorney general of the state, or any three or more citizens of said county may file a petition in equity setting up facts constituting a violation of the provisions of this act. A copy of such petition shall be served upon the person complained against who shall have ten days within which to answer the allegations thereof, if he shall desire to do so. Thereafter such proceedings shall be heard and determined by the court, either in term or in vacation, according to the ordinary rules governing proceedings in equity; provided that in every case the court or the judge thereof in vacation shall render a final judgment therein within sixty days from the date of the filing of the petition; provided further, that the court or judge hearing the case may for good cause shown extend the time for the final hearing thereof, but in no case beyond ninety days from the date of the filing of the petition. Any such proceeding may be instituted and prosecuted either in the circuit court of the county in which such sheriff, deputy sheriff, constable, deputy constable, patrol or other peace officer or deputy peace officer is serving, or in the circuit court of Franklin county. Such proceedings, if instituted by the commonwealth's attorney, county attorney or attorney general of the state, shall be in the name of the commonwealth, and if instituted by three or more citizens of the county, as herein provided, shall be in the name of such citizens as plaintiffs. Whenever it shall appear upon final hearing upon any such petition that any such sheriff, constable or peace officer, is guilty of neglect of duty under the provisions of section three of this act, the court, upon ascertaining such fact, shall enter an order or judgment forthwith removing from office such sheriff, constable or peace officer. Whenever it shall appear upon final hearing upon any such petition that any such sheriff, constable or peace officer is receiving his compensation, or any part thereof, from private sources in violation of the provisions of section one hereof, or is acting in any private employment as guard or watchman or in any



other similar private employment in violation of the provisions of section two hereof, then insofar as the same may be done in conformity to the provisions of section two hundred twenty-seven of the constitution of this state, the court, upon ascertaining such fact, shall enter an order forthwith removing such sheriff, constable, or other peace officer from office. Whenever it shall appear upon final hearing upon any such petition that any deputy sheriff, deputy constable, patrol or deputy peace officer is receiving his compensation or any part thereof from private sources in violation of the provisions of section one of this act, or is acting in any private employment as guard or watchman, or in any other similar private employment, in violation of section two of this act, the court, upon ascertaining such fact, shall enter an order forthwith removing from office any such deputy sheriff, deputy constable, patrol or deputy peace officer,

§ 5. The provisions of this act shall be applicable to all deputy sheriffs, deputy constables and deputy peace officers for whatever purpose they may be appointed, whether regular or special deputies or otherwise.

§ 6. In addition to the proceeding in equity for the removal from office provided by this act, any sheriff, deputy sheriff, constable, deputy constable, patrol or other peace officer or deputy peace officer who shall violate any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred dollars nor more than five thousand dollars, or confined in jail, not to exceed one year, or both, in the discretion of the jury.

§ 7. Any person, firm or corporation who shall directly or indirectly pay or contribute or cause to be paid or contributed any money or other thing of value to any sheriff, deputy sheriff, constable, deputy constable, patrol or other peace officer, or deputy peace officer, or to any governmental unit or officer thereof, either as a gift or donation or



for the performance of any public duty or for the performance of private employment as guard or watchman or other similar private employment, except as provided in the next succeeding section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be fined not less than five hundred dollars nor more than five thousand dollars.

§ 7½. Nothing in this Act shall prevent the Governor from appointing a special local peace officer, and he is hereby authorized to appoint such local peace officer to preserve the peace, patrol, protect and preserve the property of any person or corporation, for such time as the Governor deems necessary, from waste or destruction. Upon the application of the owner of such property for such services, and upon the recommendation of the owner of the property, the Governor will appoint immediately the person so recommended by the owner of the property to be protected. Any person so appointed by the Governor shall have all the qualifications now or hereafter prescribed by law for non-elective peace officers and no person shall be eligible for appointment under this section until he has established to the satisfaction of the Governor that he possesses such qualifications. His authorized duties will be confined to the premises of the ownership of the property to be protected, except while in pursuit of someone fleeing from such place after committing some act of violence or destruction of said property. In that case, he will have the authority to pursue such fugitive and make arrest anywhere in the confines of the State of Kentucky. When special services of this kind are requested by any owner, the Governor shall require the owner to pay into the State treasury an amount to equal such cost of said special peace officer, and the salary of said officer shall be paid direct out of the State treasury by order of the Governor.

The Governor may remove any person so employed at will or upon the request of the owner of the property.

§ 8. In case any part, section, clause, sentence, phrase,

word or application of this act shall be for any reason declared unconstitutional or invalid by a court of competent jurisdiction, such decision shall not effect the remaining portion of this act which shall remain in force as if such act had been passed without the unconstitutional or invalid part, section, clause, sentence, phrase, word or application having been incorporated herein; it being the legislative intent that this act would have been passed in the language remaining after the elimination of so much hereof as may be declared unconstitutional or invalid.

§ 9. All laws or parts of laws in conflict or inconsistent with the provisions of this act are hereby repealed; provided nothing in this Act shall be construed to amend or repeal section 3766a-6 to 3766a-13, inclusive, sections 779a-1 to 779a-8, inclusive, of Carroll's Kentucky Statutes, 1936 edition.

Senator Wesley offered to amend said bill as follows, viz.:

Amend House Bill No. 27 in the Senate as follows, viz.:

On Page 5, Section 7½, in line 11, after the word "officers" add "and within the scope of their appointment shall have the rights, powers, duties and responsibilities of such peace officers."

Without objection, said amendment as offered by Senator Wesley was withdrawn.

Senator J. Lee Moore moved the Previous Question.

Whereupon, the President of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and the same be read for the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill, in accordance with the provision of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	John M. Hall	John A. Sugg, Jr.
Aubrey Barbour	J. Joseph Hettinger	Jos. P. Tackett
H. Stanley Blake	Stanley B. Mayer	Ervine Turner
Ollie J. Bowen	Strother Melton	Thomas O. Turner
Leer Buckley	E. C. Moore	E. T. Wesley
Dr. D. H. Bush	J. Lee Moore	Otis White
Waller A. Crockett	Ray B. Moss	O. C. Whitfield
Edwin C. Dawson	James C. Rogers	B. M. Williams
Lee Gibson	Ira W. See	
Ralph Gilbert	Paul L. Sidebottom	—28

There voted in the negative—

J. M. Wolfinbarger	—1
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Resolved that the title thereof be as aforesaid.

Senator Gilbert moved that the vote by which said bill was passed be reconsidered, and said last named motion lie on the table.

Said motion was agreed to.

Senator Gilbert moved that the rules be suspended and the Chief Clerk of the Senate be directed to report the action of the Senate to the House.

Said motion was agreed to, by a majority of the members elected.

Senator Gilbert moved that the Senate do now recess until 1:30 o'clock, p. m.

Senator Ervine Turner offered to amend said motion as made by Senator Gilbert as follows, viz.: That the Senate do now recess until 1:30 o'clock, p. m., and that when the Senate adjourns today, it adjourn to meet again at 2:00 o'clock, p. m., Monday, January 24th, 1938.

Said amendment was agreed to.

Whereupon, said motion as amended was then agreed to.

And then the Senate recessed.

The appointed hour having arrived, the President of the Senate resumed the Chair and called the Senate to order.

Senator T. O. Turner moved that the rules be suspended, and an invitation to attend and the privilege of the floor be extended for the session of Monday, January 24th, 1938, to the Honorable Alben W. Barkley, Member of the United

States Senate from Kentucky, and the distinguished guests and fellow members accompanying him to Kentucky, to-wit: Senator Minton of Indiana, Senator Neeley of West Virginia, Senator Guffey of Pennsylvania, Senator Trumen of Missouri, and Senator Schwellenback of Washington.

Said motion was unanimously agreed to.

#### REPORT OF COMMITTEE ON ENROLLMENT

Senator Dawson of the Committee on Enrollment reported that said Committee had examined and found to be correctly enrolled a bill of the following title, viz.:

H. B. 27. (For title see S. J. of today, ante.)

Whereupon, all other business was suspended and said bill was read at length and compared in open session and found to be correctly enrolled; and, thereupon, the President of the Senate, in open session, and in the presence of the Senate, affixed his signature thereto.

Ordered that the Enrolling Clerk of the Senate deliver said bill to the Enrolling Clerk of the House.

Senator Dawson moved that the Senate do now adjourn.

Said motion was agreed to.

And then the Senate adjourned.



MONDAY, JANUARY 24, 1938.

The Senate convened and was called to order by the Lieutenant Governor of the Commonwealth, the Honorable Keen Johnson, President of the Senate.

The Senate was opened with prayer by the Reverend E. W. Baxter, rector of the Church of the Ascension, Frankfort, Kentucky.

The roll of the Senate was called and the following Senators answered to their names, viz.:

Wm. R. Attkisson	John M. Hall	John A. Sugg, Jr.
Aubrey Barbour	J. Joseph Hettinger	Jos. P. Tackett
Paul M. Basham	H. Watt Hillman	Ervine Turner
H. Stanley Blake	Leo King	Thomas O. Turner
Ollie J. Bowen	J. W. McDonald	E. T. Wesley
Leer Buckley	Stanley B. Mayer	Otis White
Dr. D. H. Bush	Strother Melton	O. C. Whitfield
Waller A. Crockett	E. C. Moore	B. M. Williams
Edwin C. Dawson	J. Lee Moore	J. E. Wise
W. C. Farmer	Ray B. Moss	J. M. Wolfenbarger
Lee Gibson	Ira W. See	
Ralph Gilbert	Paul L. Sidebottom	

Senator Dawson moved that the reading of the Journal of the proceedings of Friday, January 21st, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.

Senator Crockett moved that the rules be suspended and the privilege of the floor be extended to Mr. E. H. Harvey.

Said motion was unanimously agreed to.

Senator Buckley moved that the rules be suspended and

the privilege of the floor be extended to Mr. Robert Beard of Shelbyville, Kentucky.

Said motion was unanimously agreed to.

Senator See moved that the rules be suspended and the privilege of the floor be extended to Mrs. Robert Dennis of Ashland, Kentucky.

Said motion was unanimously agreed to.

Senator McDonald moved that the rules be suspended and the privilege of the floor be extended to Judge W. H. Crowder, Sheriff Cliff Howard and Mr. Paul Lester, all of Graves County, Kentucky.

Said motion was unanimously agreed to.

Senator Dawson moved that the rules be suspended and the privilege of the floor be extended to Mr. Rocco Dawson of New Haven, Kentucky, former Doorkeeper of the Senate.

Said motion was unanimously agreed to.

Senator Ervine Turner moved that the rules be suspended and the privilege of the floor be extended to Mr. Charles E. Lindon, County Attorney of Wolfe County, Campton, Kentucky.

Said motion was unanimously agreed to.

Senator King moved that the rules be suspended and the privilege of the floor be extended to Mr. Frank Street, Henderson, Kentucky.

Said motion was unanimously agreed to.

## INTRODUCTION OF BILLS

Bills and resolutions of the following titles were introduced, ordered printed and referred as follows, viz.:

By Senator Gibson.

S. B. 104. An Act to fix the minimum amount of capital of any bank, trust company, combined bank and trust company, and trust, banking and title insurance companies, hereafter organized under the laws of this State, and to clarify any statutory inconsistencies relating thereto; and to repeal and re-enact, as amended, Kentucky Statutes, Carroll's Edition 1936, Section 577, and Section 580, relating to banks, Section 603 relating to trust companies, Section 612a relating to combined banks and trust companies, and Section 883c-1 relating to trust, banking and title insurance companies; and to repeal, so far as inconsistent herewith, Section 598b (2) relating to the required capital of State and National banks in this State acting as fiduciaries.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. *This Act shall apply to the financial institutions hereafter organized and specified herein, and not to any such corporations of any of the classes herein mentioned now existing.*

§ 2. Section 577 Kentucky Statutes, Carroll's Edition 1936, as amended, is hereby repealed, amended and reenacted to read as follows:

“Any number of persons, not less than five, may associate to establish a commercial bank, or a savings bank, or a bank having departments for both classes of business, upon the terms and conditions and subject to the liabilities pre-

scribed in this article, *as follows*: the capital stock of any bank shall not be less than \$25,000 in cities or towns having a population of 5,000 or less; nor less than \$50,000 in cities having a population in excess of 5,000 but less than 25,000; nor less than \$100,000 in cities having a population in excess of 25,000 but less than 100,000; nor less than \$200,000 in cities having a population in excess of 100,000; and if such bank shall also engage in the business of a trust or title insurance company, the amount of capital required above shall be at least double the amount fixed and stated in this section.

Whenever in this section the word 'population' is used the population as indicated by the last regular United States census is meant".

§ 3. Section 580 Kentucky Statutes, Carroll's Edition 1936, is hereby repealed, and in lieu thereof there is hereby enacted the following substitute:

*"The minimum capital required of any bank or other financial institution shall be paid in full in money, and in addition thereto there shall be so paid in a surplus of twenty per cent (20%) of the minimum capital so required, and be in the custody of the directors before it shall be authorized to commence business"*.

§ 4. Section 603 Kentucky Statutes, Carroll's Edition 1936, is hereby repealed, amended and reenacted to read as follows:

*"Any number of persons not less than seven, may associate to establish a corporation for the purpose of conducting a trust business under the provisions of this article, as follows: the capital stock of any trust company shall not be less than \$25,000 in cities or towns having a population of 5,000 or less; nor less than \$50,000 in cities have a population in excess of 5,000 but less than 25,000; nor less than \$100,000 in cities having a population in excess of 25,000 but less than 100,000; nor less than \$200,000 in cities having a population in*

*excess of 100,000; and if such trust company shall also engage in the business of banking or title insurance company, the amount of capital required above shall be at least double the amount fixed and stated in this section.*

*Whenever in this section the word 'population' is used the population as indicated by the last regular United States census is meant''.*

§ 5. Section 612a Kentucky Statutes, Carroll's Edition 1936, is hereby repealed, amended and reenacted, to read as follows:

“Any number of persons, not less than seven, may associate to establish a corporation for the purpose of conducting, and it may conduct, both a banking business and a trust company business. The capital stock of such corporation shall not be less than \$50,000 *in cities or towns having a population of 5,000 or less; nor less than \$100,000 in cities having a population in excess of 5,000 but less than 25,000; nor less than \$200,000 in cities having a population in excess of 25,000 but less than 100,000; nor less than \$400,000 in cities having a population in excess of 100,000.* The whole of said capital stock shall be subscribed and paid in money *and in addition thereto there shall be paid in a surplus of twenty per cent (20%) of the minimum capital so required* before said corporation shall commence business. One-half of such capital stock shall be securely invested for the trust business of the corporation and shall at all times be kept separate and distinct from its other assets, and shall be primarily liable for its fiduciary obligations. The remainder of the capital stock of the corporation may be used in its business of banking, and its books shall be so kept as to show separately at all times the conditions of its banking business and of its trust business. Any corporation now doing either a banking or trust business in any county or city in this Commonwealth, *and with the capital herein required,* may, with the consent of a majority in number and interest, of its stockholders, organize



under this section, and the stock, if unimpaired, may be converted into stock in the new corporation.

*Whenever in this section the word 'population' is used the population as indicated by the last regular United States census is meant"*

§ 6. Section 883c (1) Kentucky Statutes, Carroll's Edition 1936, is hereby repealed, amended and re-enacted, to read as follows:

"That any number of persons not less than thirteen, may associate to establish a corporation for the purpose of conducting, and it may conduct, both a general banking business, a trust company business and a real estate title insurance business. The capital stock of such corporation shall not be less than \$50,000 in cities or towns having a population of 5,000 or less; nor less than \$100,000 in cities having a population in excess of 5,000 but less than 25,000; nor less than \$200,000 in cities having a population in excess of 25,000 but less than 100,000; nor less than \$400,000 in cities having a population in excess of 100,000. The whole of said capital stock shall be subscribed and paid in money, and in addition thereto there shall be paid in a surplus of twenty per cent (20%) of the minimum capital so required, before said corporation shall commence business. Not less than \$50,000, and never more than one-third or less than one-tenth of the total capital stock of any company, organized pursuant to this act, shall be used in its business of real estate title insurance; and one-half of such authorized capital stock, remaining after deducting so much thereof as may be set apart to the department of real estate title insurance, shall be securely invested for the trust business of the corporation, and shall, at all times, be kept separate and distinct from its other assets, and shall be primarily liable for its fiduciary obligations; and the other half of such remainder of the capital stock of the corporation may be used in its business of banking; and its books shall be so kept as to show separately at all times the condition of its trust business, the condition of its banking

business and the condition of its real estate title insurance business.

*Whenever in this section the word 'population' is used the population as indicated by the last regular United States census is meant''.*

All laws or parts of laws in conflict herewith are hereby repealed.

To Committee on Banks and Trust Companies.

By Senator Melton.

S. B. 105. An Act to amend and re-enact Section 3142b-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to policemen and firemen's pension fund in cities of the second class, in the Commonwealth of Kentucky.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That section 3142b-4 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to policemen and firemen's pension fund in cities of the second class, be amended and re-enacted, so that when so amended and re-enacted it shall read, as follows:

"§ 3142b-4. There shall be levied and set apart by the Board of Commissioners of cities of the second class a tax for the year 1938, and for each and every year thereafter, and said tax shall be for a sum certain and definite, not less, however, than two cents on each one hundred dollars in value of taxable property in said cities for the year in which said tax is levied; nor shall said tax in any year exceed the sum of five cents on each one hundred dollars in value of taxable property in said cities for the year in which said tax is levied; and all

funds realized from the levy and collection of said taxes are hereby appropriated, and shall go to, and be for the benefit of the fund for the pensioning of any policemen or firemen who have served continuously in the police and fire department for at least a period of twenty years, and who shall retire from the service after said period, and for the further purpose of pensioning any member of the police and fire departments who may become permanently crippled while in the service and on duty, and for the further purpose of pensioning the widow or dependants, children under the age of fourteen years, or either of them, of any member of either department who may lose his life while in the service and on active duty. And all rewards, fees, proceeds of gifts and emoluments that may be paid or given on account of extraordinary service of any officer, member or employe of the department shall be paid in the treasury to the credit of the police and firemen's pension fund. The payment so made, together with the tax levy aforesaid, shall constitute and be kept as a fund, to be called the Police and Firemen's Pension Fund, and the said Board heretofore designated is hereby declared to be the trustee of said fund, and they shall have power, and it shall be their duty, from time to time, to invest the same, in whole or in part, as they shall deem most advantageous for the objects of said fund; and they are empowered to make all the necessary contracts and to take all the necessary remedies in the premises.

§ 2. All laws or parts of laws in conflict or inconsistent with the provisions of this Act are to the extent of such conflict or inconsistency hereby repealed.

To Committee on Municipalities.

By Senator Whitfield.

S. B. 106. An Act relating to the uniform law of warehouse receipts and warehousing, providing for the issual of

warehouse receipts, the obligation and rights of warehousemen upon receipts, interpretation of the act, and providing penalties for violations thereof.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Warehouse receipts may be issued by any warehouseman.

§ 2. Warehouse receipts need not be in any particular form, but every such receipt must embody within its written or printed terms:

(a) The location of the warehouse where the goods are stored.

(b) The date of issue of the receipt.

(c) The consecutive number of the receipt.

(d) A statement whether the goods received will be delivered to the bearer, to a specified person or to a specified person or his order.

(e) The rate of storage charges.

(f) A description of the goods or of the packages containing them.

(g) The signature of the warehouseman, which may be made by his authorized agent.

(h) If the receipt is issued for goods for which the warehouseman is owner, either solely or jointly or in common with others, the fact of such ownership.

(i) A statement of the amount of advances made and of liabilities incurred, for which the warehouseman claims a lien. If the precise amount of such advances made or of such liabilities incurred is at the time of the issue of the receipt unknown to the warehouseman or to his agent who issued it, a statement of the fact that advances have been made or liabilities incurred and the purpose thereof is sufficient. A warehouseman shall be liable to any person injured thereby for

all damage caused by the omission from a negotiable receipt of any of the terms herein required.

§ 3. A warehouseman may insert in a receipt issued by him any other terms and conditions; provided, that such terms and conditions shall not:

(a) Be contrary to the provisions of this chapter.

(b) In any wise impair his obligation to exercise that degree of care in safe-keeping of the goods intrusted to him which a reasonably careful man would exercise in regard to similar goods of his own.

§ 4. A receipt in which it is stated that the goods received will be delivered to the depositor or to any other specified person is a non-negotiable receipt.

§ 5. A receipt in which it is stated that the goods received will be delivered to the bearer, or to the order of any person named in such receipt, is a negotiable receipt.

No provision shall be inserted in a negotiable receipt that it is non-negotiable. Such provisions, if inserted, shall be void.

§ 6. When more than one negotiable receipt is issued for the same goods, the word "duplicate" shall be plainly placed upon the face of every such receipt, except the one first issued. A warehouseman shall be liable for all damages caused by his failure so to do to any one who purchased the subsequent receipt for value, supposing it to be an original, even though the purchase be after the delivery of the goods by the warehouseman to the holder of the original receipt.

§ 7. A non-negotiable receipt shall have plainly placed upon its face by the warehouseman issuing it "non-negotiable," or "not negotiable." In case of the warehouseman's failure so to do, a holder of the receipt who purchased it for value, supposing it to be negotiable, may, at his option, treat such receipt as imposing upon the warehouseman the same liabilities he would have incurred had the receipt been negotiable.



This section shall not apply, however, to letters, memoranda, or written acknowledgments of an informal character.

§ 8. A warehouseman, in the absence of some lawful excuse provided by this chapter, is bound to deliver the goods upon a demand made either by the holder of a receipt for the goods or by the depositor, if such demand is accompanied with:

(a) An offer to satisfy the warehouseman's lien;

(b) An offer to surrender the receipt, if negotiable, with such indorsements as would be necessary for the negotiation of the receipt; and

(c) A readiness and willingness to sign, when the goods are delivered, an acknowledgment that they have been delivered, if such signature is requested by the warehouseman. In case the warehouseman refuses or fails to deliver the goods in compliance with a demand by the holder or depositor so accompanied, the burden shall be upon the warehouseman to establish the existence of a lawful excuse for such refusal.

§ 9. A warehouseman is justified in delivering the goods, subject to the provisions of the following sections. To one who is:

(a) The person lawfully entitled to the possession of the goods, or his agent;

(b) A person who is either himself entitled to delivery by the terms of the non-negotiable receipt issued for the goods, or who has written authority from the person so entitled either indorsed upon the receipt or written upon another paper;

(c) A person in possession of negotiable receipt by the terms of which the goods are delivered to him or order or to bearer, or which has been indorsed by him or in blank by the person to whom delivery was promised by the terms of the receipt or by his mediate or immediate indorsee.

§ 10. Where a warehouseman delivers the goods to one who is not in fact lawfully entitled to the possession of them, the warehouseman shall be liable as for conversion to all hav-

ing right of property or possession in the goods if he delivered the goods otherwise than as authorized by subdivisions (b) and (c) of the preceding section, and though he delivered the goods as authorized by said subdivision, he shall be so liable, if prior to such delivery he had either:

(a) Been requested, by or on behalf of the person lawfully entitled to a right of property or possession in the goods, not to make such delivery; or

(b) Had information that the delivery about to be made was to one not lawfully entitled to the possession of the goods.

§ 11. Except as provided in section 41, where a warehouseman delivers goods for which he had issued a negotiable receipt, the negotiation of which would transfer the right to the possession of the goods and fails to take up and cancel the receipt, he shall be liable to any one who purchases for value in good faith such receipt for failure to deliver the goods to him, whether such person acquired title to the receipt before or after the delivery of the goods by the warehouseman.

§ 12. Except as provided in section 41, where the warehouseman delivers part of the goods for which he had issued a negotiable receipt and fails either to take up and cancel such receipt or to place plainly upon it a statement of what goods or packages have been delivered, he shall be liable to any one who purchases for value in good faith such receipt for failure to deliver all the goods specified in the receipt, whether such purchaser acquired the title before or after the delivery of any portion of the goods by the warehouseman.

§ 13. The alteration of a receipt shall not excuse the warehouseman who issued it from any liability if such alteration was (a) immaterial, (b) authorized, or (c) made without fraudulent intent. If the alteration was authorized, the warehouseman shall be liable according to the terms of the receipt as altered. If the alteration was unauthorized, but made without fraudulent intent, the warehouseman shall be liable.

according to the terms of the receipt as they were before alteration.

Material and fraudulent alteration of a receipt shall not excuse the warehouseman who issued it from liability to deliver according to the terms of the receipt as originally issued, the goods for which it was issued, but shall excuse him from any other liability to the person who made the alteration and to any person who took with notice of the alteration. Any purchaser of the receipt for value without notice of the alteration shall acquire the same rights against the warehouseman which such purchaser would have acquired if the receipt had not been altered at the time of the purchase.

§ 14. Where a negotiable receipt has been lost or destroyed, a court of competent jurisdiction may order the delivery of the goods upon satisfactory proof of such loss or destruction and upon the giving of a bond, with sufficient sureties, to be approved by the court, to protect the warehouseman from any liability or expense which he or any person injured by such delivery may incur by reason of the original receipt remaining outstanding. The court may also in its discretion order the payment of the warehouseman's reasonable costs and counsel fees. But the delivery of the goods under an order of the court, as provided in this section, shall not relieve the warehouseman from liability to a person to whom the negotiable receipt has been or shall be negotiated for value without notice of the proceedings or of the delivery of the goods.

§ 15. A receipt upon the face of which the word "duplicate" is plainly placed is a representation and warranty by the warehouseman that such receipt is an accurate copy of an original receipt properly issued and uncanceled at the date of the issue of the duplicate, but shall impose upon him no other liability.

§ 16. No title or right to the possession of goods, on the part of the warehouseman, unless such title or right is derived, directly or indirectly, from a transfer made by the

depositor at the time of or subsequent to the deposit for storage, or from the warehouseman's lien, shall excuse the warehouseman from liability for refusing to deliver the goods according to the terms of the receipt.

§ 17. If more than one person claim the title or possession of the goods, the warehouseman may, either as a defense to an action brought against him for nondelivery of the goods, or as an original suit, whichever is appropriate, require all known claimants to interplead.

§ 18. If some one other than the depositor or person claiming under him has a claim to the title or possession of the goods, and the warehouseman has information of such claim, the warehouseman shall be excused from liability for refusing to deliver the goods, either to the depositor or person claiming under him or to the adverse claimant, until the warehouseman has had a reasonable time to ascertain the validity of the adverse claim or to bring legal proceedings to compel all claimants to interplead.

§ 19. Except as provided in the two preceding sections and in sections 9 and 41, no right or title of a third person shall be a defense to an action brought by the depositor or person claiming under him against the warehouseman for failure to deliver the goods according to the terms of the receipt.

§ 20. A warehouseman shall be liable to the holder of a receipt, issued by him or on his behalf by an agent or employee the scope of whose actual or apparent authority includes the issuing of warehouse receipts, for damages caused by the nonexistence of the goods or by the failure of the goods to correspond with the description thereof in the receipt at the time of its issue. If, however, the goods are described in a receipt merely by a statement of marks or labels upon them, or upon packages containing them, or by a statement that the goods are said to be goods of a certain kind, or that the packages containing the goods are said to contain goods of a certain kind, or by words of like purport, such state-



ments, if true, shall not make liable the warehouseman issuing the receipt, although the goods are not of the kind which the marks or labels upon them indicate, or of the kind they were said to be by the depositor.

§ 21. A warehouseman shall be liable for any loss or injury to the goods caused by his failure to exercise such care in regard to them as a reasonably careful owner of similar goods would exercise, but he shall not be liable in the absence of an agreement to the contrary for any loss or injury to the goods which could not have been avoided by the exercise of such care.

§ 22. Except as provided in the following section, a warehouseman shall keep the goods so far separate from goods of other depositors and from other goods of the same depositor for which a separate receipt has been issued as to permit at all times the identification and redelivery of the goods deposited.

§ 23. If authorized by agreement or by custom, a warehouseman may mingle fungible goods with other goods of the same kind and grade. In such case the various depositors of the mingled goods shall own the entire mass in common, and each depositor shall be entitled to such portion thereof as the amount deposited by him bears to the whole.

§ 24. The warehouseman shall be severally liable to each depositor for the care and redelivery of his share of such mass under the same circumstances as if the goods had been kept separate.

§ 25. If goods are delivered to a warehouseman by the owner or by a person whose act in conveying the title to them to a purchaser in good faith for value would bind the owner, and a negotiable receipt is issued for them, they cannot thereafter, while in possession of the warehouseman, be attached by garnishment or otherwise, or be levied upon under an execution unless the receipt be first surrendered to the warehouseman or its negotiation enjoined. The warehouseman shall in no case be compelled to deliver up the actual posses-



sion of the goods until the receipt is surrendered to him or impounded by the court.

§ 26. A creditor whose debtor is the owner of a negotiable receipt shall be entitled to such aid from the courts of appropriate jurisdiction by injunction and otherwise, in attaching such receipt or in satisfying the claim by means thereof as is allowed at law or in equity in regard to property which cannot readily be attached or levied upon by ordinary legal process.

§ 27. Subject to the provisions of section 30, a warehouseman shall have a lien on goods deposited or on proceeds thereof in his hands for all lawful charges for storage and preservation of the goods; also, for all lawful claims for money advanced, interest, insurance, transportation, labor, weighing, coopering and other charges and expenses in relation to such goods; also for all reasonable charges and expenses for notice and advertisements of sale and for sale of the goods where default has been made in satisfying the warehouseman's lien.

§ 28. Subject to the provisions of section 30, a warehouseman's lien may be enforced:

(a) Against all goods, whenever deposited, belonging to the person who is liable as debtor for the claims in regard to which the lien is asserted, and

(b) Against all goods belonging to others which have been deposited at any time by the person who is liable as debtor for the claims in regard to which the lien is asserted, if such person has been so intrusted with the possession of the goods that a pledge of the same by him at the time of the deposit to one who took the goods in good faith for value would have been valid.

§ 29. A warehouseman loses his lien upon goods:

(a) By surrendering possession thereof, or

(b) By refusing to deliver the goods when a demand is made with which he is bound to comply under the provisions of this chapter.

§ 30. If a negotiable receipt is issued for goods, the warehouseman shall not have a lien thereon, except for charges for storage of those subsequent to the date of the receipt, unless the receipt expressly enumerates other charges for which a lien is claimed. In such case there shall be a lien for the charges enumerated so far as they are within the terms of section 27, although the amount of the charges so enumerated is not stated in the receipt.

§ 31. A warehouseman having a lien valid against the person demanding the goods may refuse to deliver the goods to him until the lien is satisfied.

§ 32. Whether a warehouseman has or has not a lien upon the goods, he is entitled to all remedies allowed by law to a creditor against his debtor for the collection of all charges and advances which the depositor has expressly or impliedly contracted with the warehouseman to pay.

§ 33. A warehouseman's lien for a claim which has become due may be satisfied as follows:

The warehouseman shall give a written notice to the person on whose account the goods are held and to any other person known to the warehouseman to claim an interest in the goods. Such notice shall be given by delivery in person or by registered letter addressed to the last place of business or abode of the person to be notified.

§ 34. The notice shall contain:

(a) An itemized statement of the warehouseman's claim and the date or dates when it became due;

(b) A brief description of goods against which the lien exists;

(c) A demand that the amount of the claim as stated in the notice, and of such further claim as shall accrue, shall be paid on or before a day mentioned, not less than ten days from the delivery of the notice if it be personally delivered, or from the time when the notice should reach its destination, according to the due course of post, if the notice is sent by mail; and

(d) A statement that unless the claim is paid within

the time specified, the goods will be advertised for sale and sold by auction at a specified time and place.

§ 35. In accordance with the terms of notice so given, a sale of the goods by auction may be had to satisfy any valid claim of the warehouseman for which he has a lien on the goods. The sale shall be had in the place where the lien was acquired, or, if such place is manifestly unsuitable for the purpose, at the nearest suitable place.

§ 36. After the time for the payment of the claim specified in the notice to the depositor has elapsed, an advertisement of the sale, describing the goods to be sold and stating the name of the owner or person on whose account the goods are held and the time and place of the sale shall be published once a week for two consecutive weeks in a newspaper published in the place where such sale is to be held. The sale shall not be held less than fifteen days from the time of the first publication. If there is no newspaper published in such place, the advertisement shall be posted at least ten days before such sale in not less than six conspicuous places therein.

§ 37. From the proceeds of such sale, the warehouseman shall satisfy his lien, including the reasonable charges of notice, advertisement, and sale. The balance, if any, of such proceeds shall be held by the warehouseman, and delivered on demand to the person to whom he would have been bound to deliver or justified in delivering the goods.

§ 38. At any time before the goods are so sold, any person claiming a right of property or possession therein may pay the warehouseman the amount necessary to satisfy his lien and to pay the reasonable expenses and liabilities incurred in serving notices and advertising and preparing for the sale up to the time of such payment. The warehouseman shall deliver the goods to the person making such payment if he is a person entitled, under the provisions of this chapter, to the possession of the goods on payment of charges thereon. Otherwise, the warehouseman shall retain possession of the

goods according to the terms of the original contract of deposit.

§ 39. If goods are of a perishable nature, or by keeping will deteriorate greatly in value, or by their odor, leakage, inflammability, or explosive nature will be liable to injure other property, the warehouseman may give such notice to the owner, or to the person in whose name the goods are stored, as is reasonable and possible under circumstances to satisfy the lien upon such goods, and to remove them from the warehouse; and in the event of the failure of such person to satisfy such lien and to remove the goods within the time specified, the warehouseman may sell the goods at public or private sale without advertising.

If the warehouseman after a reasonable effort is unable to sell such goods, he may dispose of them in any lawful manner, and shall incur no liability by reason thereof.

The proceeds of any sale made under the terms of this section shall be disposed of in the same way as the proceeds of sales made under the terms of the preceding sections.

§ 40. The remedy for enforcing a lien herein provided does not preclude any other remedies allowed by law for the enforcement of a lien against personal property nor bar the right to recover so much of the warehouseman's claim as shall not be paid by the proceeds of the sale of property.

§ 41. After goods have been lawfully sold to satisfy a warehouseman's lien, or have been lawfully sold or disposed of because of their perishable or hazardous nature, the warehouseman shall not thereafter be liable for failure to deliver the goods to the depositor or owner of the goods, or to a holder of the receipt given for the goods when they are deposited, even if such receipt is negotiable.

§ 42. A negotiable receipt may be negotiated by delivery:

(a) Where, by the terms of receipt, the warehouseman undertakes to deliver the goods to the bearer; or

(b) Where, by the terms of the receipt, the warehouse-



man undertakes to deliver the goods to the order of a specified person, and such person or a subsequent indorsee of the receipt has indorsed it in blank or to bearer.

§ 43. Where, by the terms of a negotiable receipt, the goods are delivered to bearer or where a negotiable receipt has been indorsed in blank or to bearer any holder may indorse the same to himself or to any other specified person, and in such case the receipt shall thereafter be negotiated only by the indorsement of such indorsee.

§ 44. A negotiable receipt may be negotiated by the indorsement of a person to whose order the goods are, by the terms of the receipt, deliverable. Such indorsement may be in blank, to bearer or to a specified person. If indorsed by a specified person, it may be again negotiated by the indorsement of such person in blank, to bearer or to another specified person. Subsequent negotiations may be made in like manner.

§ 45. A receipt which is not in such form that it can be negotiated by delivery may be transferred by the holder by delivery to a purchaser or donee. A non-negotiable receipt cannot be negotiated, and the indorsement of such a receipt gives the transferee no additional right.

§ 46. A negotiable receipt may be negotiated:

(a) By the owner thereof, or

(b) By any person in possession of same, however such possession may have been acquired if, by the terms of the receipt, the warehouseman undertakes to deliver the goods to the order of such person, or if at the time of negotiation the receipt is in such form that it may be negotiated by delivery.

§ 47. A person to whom a negotiable receipt has been duly negotiated acquired thereby:

(a) Such title to the goods as the person negotiating the receipt to him had or had ability to convey to a purchaser in good faith for value, and also such title to the goods as the depositor or person to whose order the goods were to be delivered by the terms of the receipt had or had ability to convey to a purchaser in good faith for value; and



(b) The direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt as fully as if the warehouseman had contracted directly with him.

§ 48. A person to whom a receipt has been transferred, but not negotiated, acquires thereby, as against the transferrer, the title to the goods, subject to the terms of any agreement with the transferrer.

If the receipt is non-negotiable, such person also acquires the right to notify the warehouseman of the transfer to him of such receipt, and thereby to acquire the direct obligation of the warehouseman to hold possession of the goods for him according to the terms of the receipt. Prior to the notification of the warehouseman by the transferrer or transferee of a non-negotiable receipt, the title of the transferrer to the goods and the right to acquire the obligation of the warehouseman may be defeated by the levy of any attachment or execution upon the goods by a creditor of the transferrer or a subsequent purchaser from the transferrer of a subsequent sale of the goods by the transferrer.

§ 49. Where a negotiable receipt is transferred for value by delivery, and the indorsement of the transferrer is essential for negotiation, the transferee acquires a right against the transferrer to compel him to indorse the receipt, unless a contrary intention appears. The negotiation shall take effect as of the time when the indorsement is actually made.

§ 50. A person who for value negotiates or transfers a receipt by indorsement or delivery including one who assigns for value a claim secured by a receipt, unless a contrary intention appears, warrants:

- (a) That the receipt is genuine;
- (b) That he has a legal right to negotiate or transfer it;
- (c) That he has knowledge of no fact that would impair the validity or worth of the receipt; and
- (d) That he has a right to transfer the title to the goods, and that the goods are merchantable or fit for a particular

purpose whenever such warranties would have been implied, if the contract of the parties had been to transfer without a receipt the goods represented thereby.

§ 51. The indorsement of a receipt shall not make the indorser liable for any failure on the part of the warehouseman or previous indorsers of the receipt to fulfill their respective obligations.

§ 52. A mortgagee, pledgee, or holder for security of a receipt who in good faith demands or received payment of the debt for which such receipt is security, whether from a party to a draft drawn for such debt or from any other person, shall not by so doing be deemed to represent or to warrant the genuineness of such receipt of the quantity or quality of the goods therein described.

§ 53. The validity of the negotiation of a receipt is not impaired by the fact that such negotiation was a breach of duty on the part of the person making the negotiation, or by the fact that the owner of the receipt was deprived of the possession of the same by loss, theft, fraud, accident, mistake, duress, or conversion, if the person to whom the receipt was negotiated, or the person to whom the receipt was subsequently negotiated, paid value therefore, in good faith, without notice of the breach of duty, or loss, theft, fraud, accident, mistake, duress, or conversion.

§ 54. Where a person having sold, mortgaged, or pledged goods which are in a warehouse and for which a negotiable receipt has been issued, or having sold, mortgaged, or pledged the negotiable receipt, the subsequent negotiation thereof by that person under any sale, or other disposition thereof to any person receiving the same in good faith, for value and without notice of the previous sale, mortgage, or pledge, shall have the same effect as if the first purchaser of the goods or receipt had expressly authorized the subsequent negotiation.

§ 55. Where a negotiable receipt has been issued for goods, no seller's lien or right of stoppage in transit shall

defeat the rights of any purchaser for value in good faith to whom such receipt has been negotiated, whether such negotiation be prior or subsequent to the notification to the warehouseman who issued such receipt of the seller's claim to a lien or stoppage in transit. Nor shall the warehouseman be obliged to deliver or justified in delivering the goods to an unpaid seller, unless the receipt is first surrendered for cancellation.

§ 56. A warehouseman, or any officer, agent, or servant of a warehouseman who issues or aids in issuing a receipt, knowing that the goods for which such receipt is issued have not been actually received by such warehouseman, or are not under his control at the time of issuing such receipt, shall be guilty of a crime, and be punished for such offense by imprisonment not exceeding five years or by a fine not exceeding five thousand dollars, or by both.

§ 57. A warehouseman, who fraudulently issues or aids in fraudulently issuing a receipt for goods knowing that it contains any false statements, shall be guilty of a crime, and be punished for each offense by imprisonment not exceeding one year, or by a fine not exceeding one thousand dollars, or by both.

§ 58. A warehouseman, or any officer, agent, or servant of a warehouseman, who issues or aids in issuing a receipt for goods, knowing that a former receipt for the same goods or any part of them is outstanding and uncanceled, without plainly placing upon the face thereof the word "duplicate", except in the case of a lost or destroyed receipt after proceedings as provided for in Section 14, shall be guilty of a crime, and be punished for each offense by imprisonment not exceeding five years or by a fine not exceeding five thousand dollars, or by both.

§ 59. Where there are deposited with or held by a warehouseman goods of which he is owner, either solely or jointly or in common with others, such warehouseman, or any of his officers, agents, or servants, who, knowing this ownership,

issues or aids in issuing a negotiable receipt for such goods which does not state such ownership, shall be guilty of a crime, and be punished for each offense by imprisonment not exceeding one year or by a fine not exceeding one thousand dollars, or by both.

§ 60. A warehouseman, or any officer, agent, or servant of a warehouseman, who delivers goods out of the possession of such warehouseman, knowing that a negotiable receipt, the negotiation of which would transfer the right to the possession of such goods, is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, shall, except in the cases provided for in sections 14 and 41, be found guilty of a crime, and be punished for each offense by imprisonment not exceeding one year or by a fine not exceeding one thousand dollars, or by both.

§ 61. Any person who deposits goods to which he has not title, or upon which there is a lien or mortgage, and who takes for such goods a negotiable receipt which he afterwards negotiates for value with intent to deceive and without disclosing his want of title or the existence of the lien or mortgage shall be guilty of a crime, and be punished for each offense by imprisonment not exceeding one year or by a fine not exceeding one thousand dollars, or by both.

§ 62. In any case not provided for in this chapter, the rules of law and equity, including the law merchant, and in particular the rules relating to the law of principal and agent and to the effect of fraud, misrepresentation, duress, or coercion, mistake, bankruptcy, or other invalidating cause shall govern.

§ 63. This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

§ 64. First, in this chapter, unless the context or subject-matter otherwise requires:

(1) "Action" includes counterclaim, set-off, and suit in equity.

(2) "Delivery" means voluntary transfer of possession from one person to another.

(3) "Fungible goods" means goods of which any unit is, from its nature or by mercantile custom, treated as the equivalent of any unit.

(4) "Goods" means chattels or merchandise in storage, or which has been or is about to be stored.

(5) "Holder" of a receipt means a person who has both actual possession of such receipt and a right of property therein.

(6) "Order" means an order by indorsement on the receipt.

(7) "Owner" does not include mortgagee or pledgee.

(8) "Person" includes a corporation or partnership or two or more persons having a joint or common interest.

(9) To "purchase" includes to take as mortgagee or as pledgee.

(10) "Purchaser" includes mortgagee and pledgee.

(11) "Receipt" means a warehouse receipt.

(12) "Value" is any consideration sufficient to support a simple contract. An antecedent or preexisting obligation, whether for money or not, constitutes value where a receipt is taken either in satisfaction or as security therefor.

(13) "Warehouseman" means a person lawfully engaged in the business of storing goods for profit.

Second, a thing is done in "good faith" within the meaning of this chapter when it is in fact done honestly, whether it be done negligently or not.

To Committee on Agriculture and State Fair.

By Senator Attkisson.

S. B. 107. An Act to be known and cited as the soil conservation districts law.



Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1

This act may be known and cited as the soil conservation districts law.

§ 2. LEGISLATIVE DETERMINATIONS AND DECLARATION OF POLICY.

It is hereby declared, as a matter of legislative determination.

A. The condition—That the farm and grazing lands of the Commonwealth of Kentucky are among the basic assets of the Commonwealth of Kentucky, and that the preservation of these lands is necessary to protect and promote the health, safety, and general welfare of its people; that improper land-use practices have caused and have contributed to, and are now causing and contributing to, a progressively more serious erosion of the farm and grazing lands of this Commonwealth by wind and water; that the breaking of natural grass, plant, and forest cover have interfered with the natural factors of soil stabilization, causing loosening of soil and exhaustion of humus, and developing a soil condition that favors erosion; that the topsoil is being blown and washed out of fields, and pastures; that there has been an accelerated washing of sloping fields; that these processes of erosion by wind and water speed up with removal of absorptive topsoil, causing exposure of less absorptive and less protective but more erosive subsoil; that failure by any land owner or land occupier to conserve the soil and control erosion upon his lands causes a washing and blowing of soil and water from his lands onto other lands and makes the conservation of soil and control of erosion on such other lands difficult or impossible.

B. The Consequences—That the consequences of such soil erosion in the form of soil-blowing and soil-washing are the silting and sedimentation of stream channels, reservoirs,

dams, ditches, and harbors; the loss of fertile soil material in dust storms; the piling up of soil on lower slopes, and its deposit over alluvial plains; the reduction in productivity or outright ruin of rich bottom lands by over-wash of poor sub-soil material, sand, and gravel swept out of the hills; deterioration of soil and its fertility, deterioration of crops grown thereon, and declining acre yields despite development of scientific processes for increasing such yields; loss of soil and water which causes destruction of food and cover for wildlife; a blowing and washing of soil into streams which silts over spawning beds, and destroys water plants, diminishing the food supply of fish; a diminishing of the underground water reserve which causes water shortages, intensifies periods of drought, and causes crop failures; an increase in the speed and volume of rainfall runoff, causing severe and increasing floods, which bring suffering, disease, and death; impoverishment of families attempting to farm eroding and eroded lands; damage to roads, highways, railways, farm buildings, and other property from floods and from dust storms; and losses in navigation, hydro-electric power, municipal water supply, irrigation developments, farming and grazing.

C. The appropriate corrective methods—That to conserve soil resources and control and prevent soil erosion, it is necessary that land-use practices contributing to soil wastage and soil erosion be discouraged and discontinued, and appropriate soil-conserving land-use practices be adopted and carried out; that among the procedures necessary for widespread adoption, are the carrying on of engineering operations such as the construction of terraces, terrace outlets, check-dams, dikes, ponds, ditches, and the like; the utilization of strip cropping, lister furrowing, contour cultivating, and contour furrowing; land irrigation; seeding and planting of waste, sloping, abandoned, or eroded lands to water-conserving and erosion-preventing plants, trees, and grasses; forestation and reforestation; rotation of crops, soil stabilization with trees,

grasses, legumes, and other thick-growing, soil-holding crops, retardation of run-off by increasing absorption of rainfall; and retirement from cultivation of steep, highly erosive areas and areas now badly gullied or otherwise eroded.

D. Declaration of Policy.—It is hereby declared to be the policy of the legislature to provide for the conservation of the soil and soil resources of this Commonwealth, and for the control and prevention of soil erosion, and thereby to preserve natural resources, control floods, prevent impairment of dams and reservoirs, assist in maintaining the navigability of rivers and harbors, preserve wildlife, protect the tax base, protect public lands, and protect and promote the health, safety, and general welfare of the people of this Commonwealth.

### § 3. DEFINITIONS.

Wherever used or referred to in this act, unless a different meaning clearly appears from the context:

(1) “District” or “soil conservation district” means governmental subdivision of this State, and a public body corporate and politic, organized in accordance with the provisions of this act, for the purposes, with the powers, and subject to the restrictions hereinafter set forth.

(2) “Supervisor” means one of the members of the governing body of a district, elected or appointed in accordance with the provisions of this act.

(3) “Committee” or “State soil conservation committee” means the agency created in section 4 of this act.

(4) “Petition” means a petition filed under the provisions of sub-section A of section 5 of this act for the creation of a district.

(5) “Nominating petition” means a petition filed under the provisions of section 6 of this act to nominate candidates for the office of supervisor of a soil conservation district.

(6) “State” means the Commonwealth of Kentucky.

(7) “Agency of this Commonwealth” includes the government of this Commonwealth and any subdivision, agency,

or instrumentality, corporate, or otherwise, of the government of this Commonwealth.

(8) "United States" or "agencies of the United States" includes the United States of America, the oil Conservation Service of the United States Department of Agriculture, and any other agency or instrumentality, corporate or otherwise, of the United States of America.

(9) "Government" or "governmental" includes the government of this Commonwealth, the Government of the United States, and any subdivision, agency, or instrumentality, corporate or otherwise, of either of them.

(10) "Land Owner" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act.

(11) "Land occupier" or "occupier of land" includes any person, firm, or corporation who shall hold title to, or shall be in possession of, any lands lying within a district organized under the provisions of this act, whether as owner, lessee, renter, tenant, or otherwise.

(12) "Due notice" means notice published at least twice, with an interval of at least seven (7) days between the two publication dates, in a newspaper or other publication of general circulation within the appropriate area, or if no such publication of general circulation be available, by posting at a reasonable number of conspicuous places within the appropriate area, such posting to include, where possible, posting at public places where it may be customary to post notices concerning county or municipal affairs generally. At any hearing held pursuant to such notice, at the time and place designated in such notice, adjournment may be made from time to time without the necessity of renewing such notice for such adjourned dates.

#### § 4. STATE SOIL CONSERVATION COMMITTEE.

A. There is hereby established, to serve as an agency of the Commonwealth and to perform the functions conferred



upon it in this act, the State soil conservation committee. The committee shall consist of a chairman and three (3) members. The following shall serve, ex officio, as members of the committee; the director of the State extension service, or his designated representative; the director of the State agricultural experiment station, or his designated representative, located at Lexington, Kentucky; and the director of the State department of Conservation. The committee may invite the Secretary of Agriculture of the United States of America to appoint one person to serve with the above-mentioned members as a member of the committee. The committee shall keep a record of its official actions, shall adopt a seal, which seal shall be judicially noticed, and may perform such acts, hold such public hearings, and promulgate such rules and regulations as may be necessary for the execution of its functions under this act.

B. The State soil conservation committee may employ an administrative officer and such technical experts and such other agents and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. The committee may call upon the attorney general of the Commonwealth for such legal services as it may require, or may employ its own counsel and legal staff. It shall have authority to delegate to its chairman, to one or more of its members, or to one or more agents or employees, such powers and duties as it may deem proper. Upon request of the committee, for the purpose of carrying out any of its functions, the supervising officer of any State agency, or of any State institution of learning shall, insofar as may be possible under available appropriations, and having due regard to the needs of the agency to which the request is directed, assign or detail to the committee members of the staff or personnel of such agency or institution of learning, and make such special reports, surveys, or studies as the committee may request.

C. The committee shall designate its chairman, and may,



from time to time, change such designation. A member of the committee shall hold office so long as he shall retain the office by virtue of which he shall be serving on the committee. A majority of the committee shall constitute a quorum, and the concurrence of a majority in any matter within their duties shall be required for its determination. The chairman and members of the committee shall receive no compensation for their services on the committee, but shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of their duties on the committee. The committee shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements.

D. In addition to the duties and powers hereinafter conferred upon the State soil conservation committee, it shall have the following duties and powers:

(1) To offer such assistance as may be appropriate to the supervisors of soil conservation districts, organized as provided hereinafter, in the carrying out of any of their powers and programs.

(2) To keep the supervisors of each of the several districts organized under the provisions of this act informed of the activities and experience of all other districts organized hereunder, and to facilitate an interchange of advice and experience between such districts and cooperation between them.

(3) To coordinate the programs of the several soil conservation districts organized hereunder so far as this may be done by advice and consultation.

(4) To secure the cooperation and assistance of the United States and any of its agencies, and of agencies of this Commonwealth in the work of such districts.

(5) To disseminate information throughout the Com-

monwealth concerning the activities and programs of the soil conservation districts organized hereunder, and to encourage the formation of such districts in areas where their organization is desirable.

#### § 5. CREATION OF SOIL CONSERVATION DISTRICTS.

A. Any twenty-five (25) owners of land lying within the limits of the territory proposed to be organized into a district may file a petition with the State soil conservation committee asking that a soil conservation district be organized to function in the territory described in the petition. Such petition shall set forth:

- (1) The proposed name of said district;
- (2) That there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory described in the petition;
- (3) A description of the territory proposed to be organized as a district, which description shall not be required to be given by metes and bounds or by legal subdivisions, but shall be deemed sufficient if generally accurate;
- (4) A request that the State soil conservation committee duly define the boundaries for such district; that a referendum be held within the territory so defined on the question of the creation of a soil conservation district in such territory; and that the committee determine that such a district be created.

Where more than one petition is filed covering parts of the same territory, the State soil conservation committee may consolidate all or any such petitions.

B. Within thirty (30) days after such a petition has been filed with the State soil conservation committee, it shall cause due notice to be given of a proposed hearing upon the question of the desirability and necessity, in the interest of the public health, safety, and welfare, of the creation of such district, upon the question of the appropriate boundaries to be assigned to such district, upon the propriety of the petition

and other proceedings, taken under this act, and upon all questions relevant to such inquiries. All owners of land within the limits of the territory described in the petition, and of lands within any territory considered for addition to such described territory, and all other interested parties, shall have the right to attend such hearings and to be heard. If it shall appear upon the hearing that it may be desirable to include within the proposed district territory outside of the area within which due notice of the hearing has been given, the hearing shall be adjourned and due notice of further hearing shall be given throughout the entire area considered for inclusion in the district, and such further hearing held. After such hearing, if the committee shall determine upon the facts presented at such hearing and upon such other relevant facts and information as may be available, that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination, and shall define, by metes and bounds or by legal subdivisions, the boundaries of such district. In making such determination and in defining such boundaries, the committee shall give due weight and consideration to the topography of the area considered and of the State, the composition of soils therein, the distribution of erosion, the prevailing land-use practices, the desirability and necessity of including within the boundaries the particular lands under consideration and the benefits such lands may receive from being included within such boundaries, the relation of the proposed area to existing watersheds and agricultural regions, and to other soil conservation districts already organized or proposed for organization under the provisions of this act, and such other physical, geographical, and economic factors as are relevant, having due regard to the legislative determinations set forth in section 2 of this act. The territory to be included within such boundaries need not be contiguous. If the committee shall determine after such hearing, after due consideration of the

said relevant facts, that there is no need for a soil conservation district to function in the territory considered at the hearing, it shall make and record such determination and shall deny the petition. After six (6) months shall have expired from the date of the denial of any such petition, subsequent petitions covering the same or substantially the same territory may be filed as aforesaid and new hearings held and determinations made thereon.

C. After the committee has made and recorded a determination that there is need, in the interest of the public health, safety, and welfare, for the organization of a district in a particular territory, and has defined the boundaries thereof, it shall consider the question whether the operation of a district within such boundaries with the powers conferred upon soil conservation districts in this act is administratively practicable and feasible. To assist the committee in the determination of such administrative practicability and feasibility, it shall be the duty of the Committee, within a reasonable time after entry of the finding that there is need for the organization of the proposed district and the determination of the boundaries thereof, to hold a referendum within the proposed district upon the proposition of the creation of the district, and to cause due notice of such referendum to be given. The question shall be submitted by ballots upon which the words "For creation of a soil conservation district of the lands below described and lying in the county(ies) of....., and .....,," and "Against creation of a soil conservation district of the lands below described and lying in the county(ies) of ..... and ....." shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose creation of such district. The ballot shall set forth the boundaries of such proposed district as determined by the committee. All owners of lands lying within the boundaries of the territory, as determined by the State soil conservation committee, shall



be eligible to vote in such referendum. Only such land owners shall be eligible to vote.

D. The committee shall pay all expenses for the issuance of such notices and the conduct of such hearings and referenda, and shall supervise the conduct of such hearings and referenda. It shall issue appropriate regulations governing the conduct of such hearings and referenda, and providing for the registration prior to the date of the referendum of all eligible voters, or prescribing some other appropriate procedure for the determination of those eligible as voters in such referendum. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

E. The committee shall publish the result of such referendum and shall thereafter consider and determine whether the operation of the district within the defined boundaries is administratively practicable and feasible. If the committee shall determine that the operation of such district is not administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the operation of such district is administratively practicable and feasible, it shall record such determination and shall proceed with the organization of the district in the manner hereinafter provided. In making such determination, the committee shall give due regard and weight to the attitudes of the owners of lands lying within the defined boundaries, the number of land owners eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the creation of the district to the total number of votes cast, the approximate wealth and income of the land owners of the proposed district, the probable expense of carrying on erosion-control operations within such district, and such other economic and social factors as may be relevant to such determination, hav-



ing due regard to the legislative determinations set forth in section 2 of this act; provided, however, that the committee shall not have authority to determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible unless at least a two-third ( $2/3$ ) majority of the votes cast in the referendum upon the proposition of creation of the district shall have been cast in favor of the creation of such district.

F. If the committee shall determine that the operation of the proposed district within the defined boundaries is administratively practicable and feasible, it shall appoint two (2) supervisors to act, with the three (3) supervisors elected as provided hereinafter, as the governing body of the district. Such district shall be a governmental subdivision of this Commonwealth and a public body corporate and politic, upon the taking of the following proceedings:

The two appointed supervisors shall present to the secretary of state an application signed by them, which shall set forth (and such application need contain no detail other than the mere recitals): (1) that a petition for the creation of the district was filed with the State soil conservation committee pursuant to the provisions of this act, and that the proceedings specified in this act were taken pursuant to such petition; that the application is being filed in order to complete the organization of the district as a governmental subdivision and a public body, corporate and politic, under this act; and that the committee has appointed them as supervisors; (2) the name and official residence of each of the supervisors, together with a certified copy of the appointments evidencing their right to office; (3) the term of office of each of the supervisors; (4) the name which is proposed for the district; and (5) the location of the principal office of the supervisors of the district. The application shall be subscribed and sworn to by each of the said supervisors before an officer authorized by the laws of this state to take and certify oaths, who shall certify upon the application that he personally knows the

supervisors and knows them to be the officers as affirmed in the application, and that each has subscribed thereto in the officer's presence. The application shall be accompanied by a statement by the State soil conservation committee, which shall certify (and such statement need contain no detail other than the mere recitals) that a petition was filed, notice issued, and hearing held as aforesaid; that the committee did duly determine that there is need, in the interest of the public health, safety, and welfare, for a soil conservation district to function in the proposed territory and did define the boundaries thereof; that notice was given and a referendum held on the question of the creation of such district, and that the result of such referendum showed a two-third ( $2/3$ ) majority of the votes cast in such referendum to be in favor of the creation of the district; that thereafter the committee did duly determine that the operation of the proposed district is administratively practicable and feasible. The said statement shall set forth the boundaries of the district as they have been defined by the committee.

The secretary of state shall examine the application and statement and, if he finds that the name proposed for the district is not identical with that of any other soil conservation district of this Commonwealth or so nearly similar as to lead to confusion or uncertainty, he shall receive and file them and shall record them in an appropriate book of record in his office. If the secretary of state shall find that the name proposed for the district is identical with that of any other soil conservation district of this Commonwealth, or so nearly similar as to lead to confusion and uncertainty, he shall certify such fact to the State soil conservation committee, which shall thereupon submit to the secretary of state a new name for the said district, which shall not be subject to such defects. Upon receipt of such new name, free of such defects, the secretary of state shall record the application and statement, with the name so modified, in an appropriate book of record in his office. When the application and statement have been

made, filed, and recorded, as herein provided, the district shall constitute a governmental subdivision of this Commonwealth and a public body corporate and politic. The secretary of state shall make and issue to the said supervisors a certificate, under the seal of the Commonwealth, of the due organization of the said district, and shall record such certificate with the application and statement. The boundaries of such district shall include the territory as determined by the State soil conservation committee as aforesaid, but in no event shall they include any area included within the boundaries of another soil conservation district organized under the provisions of this act.

G. After six (6) months shall have expired from the date of entry of a determination by the State soil conservation committee that operation of a proposed district is not administratively practicable and feasible, and denial of a petition pursuant to such determination, subsequent petitions may be filed as aforesaid, and action taken thereon in accordance with the provisions of this act.

H. Petitions for including additional territory within an existing district may be filed with the State soil conservation committee, and the proceedings herein provided for in the case of petitions to organize a district shall be observed in the case of petitions for such inclusion. The committee shall prescribe the form for such petitions, which shall be as nearly as may be in the form prescribed in this act for petitions to organize a district. Where the total number of land owners in the area proposed for inclusion shall be less than twenty-five (25) the petition may be filed when signed by a majority of the land owners of such area, and in such case no referendum need be held. In referenda upon petitions for such inclusion, all owners of land lying within the proposed additional area shall be eligible to vote.

I. In any suit, action, or proceeding involving the validity or enforcement of, or relating to, any contract, proceeding, or action of the district, the district shall be deemed to have

been established in accordance with the provisions of this act upon proof of the issuance of the aforesaid certificate by the secretary of state. A copy of such certificate duly certified by the secretary of state shall be admissible in evidence in any such suit, action, or proceeding and shall be proof of the filing and contents thereof.

#### § 6. ELECTION OF THREE SUPERVISORS FOR EACH DISTRICT.

Within thirty (30) days after the date of issuance by the secretary of state of a certificate of organization of a soil conservation district, nominating petitions may be filed with the State soil conservation committee to nominate candidates for supervisors of such district. The committee shall have authority to extend the time within which nominating petitions may be filed. No such nominating petition shall be accepted by the committee, unless it shall be subscribed by twenty-five (25) or more owners of lands lying within the boundaries of such district. Land owners may sign more than one such nominating petition to nominate more than one candidate for supervisor. The committee shall give due notice of an election to be held for the election of three supervisors for the district. The names of all nominees on behalf of whom such nominating petitions have been filed within the time herein designated, shall be printed, arranged in the alphabetical order of the surnames, upon ballots, with a square before each name and a direction to insert an X mark in the square before any three names to indicate the voter's preference. All owners of lands lying within the district shall be eligible to vote in such election. Only such land owners shall be eligible to vote. The three candidates who shall receive the largest number, respectively, of the votes cast in such election shall be the elected supervisors for such district. The committee shall pay all the expenses of such election, shall supervise the conduct thereof, shall prescribe regulations governing the conduct of such election and the determination



of the eligibility of voters therein, and shall publish the results thereof.

#### § 7. APPOINTMENT, QUALIFICATIONS AND TENURE OF SUPERVISORS.

The governing body of the district shall consist of five (5) supervisors, elected or appointed as provided hereinabove. The two supervisors appointed by the committee shall be persons who are by training and experience qualified to perform the specialized skilled services which will be required of them in the performance of their duties hereunder.

The supervisors shall designate a chairman and may, from time to time, change such designation. The term of office of each supervisor shall be three (3) years, except that the supervisors who are first appointed shall be designated to serve for terms of 1 and 2 years, respectively, from the date of their appointment. A supervisor shall hold office until his successor has been elected or appointed and has qualified. Vacancies shall be filled for the unexpired term. The selection of successors to fill an unexpired term, or for a full term, shall be made in the same manner in which the retiring supervisors shall, respectively, have been selected. A majority of the supervisors shall constitute a quorum and the concurrence of a majority in any matter within their duties shall be required for its determination. A supervisor shall receive no compensation for his services, but he shall be entitled to expenses, including traveling expenses, necessarily incurred in the discharge of his duties.

The supervisors may employ a secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as they may require, and shall determine their qualifications, duties, and compensation. The supervisors may call upon the attorney general of the Commonwealth for such legal services as they may require, or may employ their own counsel and legal staff. The supervisors may delegate to their chairman, to one or more supervisors, or to one or more agents, or employees such powers and duties



as they may deem proper. The supervisors shall furnish to the State soil conservation committee upon request, copies of such ordinances, rules, regulations, orders, contracts, forms, and other documents as they shall adopt or employ, and such other information concerning their activities as it may require in the performance of its duties under this act.

The supervisors shall provide for the execution of surety bonds for all employees and officers who shall be entrusted with funds or property; shall provide for the keeping of a full and accurate record of all proceedings and of all resolutions, regulations, and orders issued or adopted; and shall provide for an annual audit of the accounts of receipts and disbursements. Any supervisor may be removed by the State soil conservation committee upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason.

The supervisors may invite the legislative body of any municipality or county located near the territory comprised within the district to designate a representative to advise and consult with the supervisors of the district on all questions of program and policy which may affect the property, water supply, or other interests of such municipality or county.

#### § 8. POWERS OF DISTRICTS AND SUPERVISORS.

A soil conservation district organized under the provisions of this act shall constitute a governmental subdivision of this Commonwealth, and a public body corporate and politic, exercising public powers, and such district, and the supervisors thereof, shall have the following powers, in addition to others granted in other sections of this act:

(1) To conduct surveys, investigations, and research relating to the character of soil erosion and the preventive and control measures needed, to publish the results of such surveys, investigations, or research, and to disseminate information concerning such preventive and control measures; provided, however, that in order to avoid duplication of research activities, no district shall initiate any research program except in cooperation with the government of this Com-

monwealth or any of its agencies, or with the United States or any of its agencies;

(2) To conduct demonstrational projects within the district on lands owned or controlled by this Commonwealth or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights of interests in such lands, in order to demonstrate by example the means, methods, and measures by which soil and soil resources may be conserved, and soil erosion in the form of soil blowing and soil washing may be prevented and controlled;

(3) To carry out preventive and control measures within the district including, but not limited to, engineering operations, methods of cultivation, the growing of vegetation, changes in use of land, and the measures listed in subsection C of section 2 of this act, on lands owned or controlled by this Commonwealth or any of its agencies, with the cooperation of the agency administering and having jurisdiction thereof, and on any other lands within the district upon obtaining the consent of the owner of such lands or the necessary rights or interests in such lands;

(4) To cooperate, or enter into agreements with, and within the limits of appropriations duly made available to it by law, to furnish financial or other aid to, any agency, governmental or otherwise, or any occupier of lands within the district, in the carrying on of erosion control and prevention operations within the district, subject to such conditions as the supervisors may deem necessary to advance the purposes of this act;

(5) To obtain options upon and to acquire, by purchase, exchange, lease, gift, grant, bequest, devise, or otherwise, any property, real or personal or rights or interests therein; to maintain, administer, and improve any properties acquired, to receive income from such properties and to expend such income in carrying out the purposes and provisions of this

act; and to sell, lease, or otherwise dispose of any of its property or interests therein in furtherance of the purposes and the provisions of this act;

(6) To make available, on such terms as it shall prescribe, to land occupiers within the district, agricultural and engineering machinery and equipment, fertilizer, seeds, and seedlings, and such other material or equipment, as will assist such land occupiers to carry on operations upon their lands for the conservation of soil resources and for the prevention and control of soil erosion;

(7) To construct, improve, and maintain such structures as may be necessary or convenient for the performance of any of the operations authorized in this act;

To develop comprehensive plans for the conservation of soil resources and for the control and prevention of soil erosion within the district, which plans shall specify in such detail as may be possible, the acts, procedures, performances, and avoidances which are necessary or desirable for the effectuation of such plans, including the specification of engineering operations, methods of cultivation, the growing of vegetation, cropping programs, tillage practices, and changes in use of land; and to publish such plans and information and bring them to the attention of occupiers of lands within the district;

(9) To take over, by purchase, lease, or otherwise, and to administer, any soil-conservation, erosion-control, or erosion-prevention project located within its boundaries undertaken by the United States or any of its agencies, or by this Commonwealth or any of its agencies; to manage, as agent of the United States or any of its agencies, or of this Commonwealth or any of its agencies, any soil-conservation, erosion-control, or erosion-prevention project within its boundaries; to act as agent for the United States, or any of its agencies, or for this Commonwealth or any of its agencies, in connection with the acquisition, construction, operation, or administration of any soil-conservation, erosion-control, or

erosion-prevention project within its boundaries; to accept donations, gifts, and contributions in money, services, materials, or otherwise, from the United States or any of its agencies, or from this Commonwealth or any of its agencies, and to use or expend such moneys, services, materials, or other contributions in carrying on its operations;

(10) To sue and be sued in the name of the district; to have a seal, which seal shall be judicially noticed; to have perpetual succession unless terminated as hereinafter provided; to make and execute contracts and other instruments, necessary or convenient to the exercise of its powers; to make, and from time to time amend and repeal, rules and regulations not inconsistent with this act, to carry into effect its purposes and powers:

(11) As a condition to the extending of any benefits under this act to, or the performance of work upon, any lands not owned or controlled by this Commonwealth or any of its agencies, the supervisors may require contributions in money, services, materials, or otherwise to any operations conferring such benefits, and may require land occupiers to enter into and perform such agreements or covenants as to the permanent use of such lands as will tend to prevent or control erosion thereon;

(12) No provisions with respect to the acquisition, operation, or disposition of property by other public bodies shall be applicable to a district organized hereunder unless the legislature shall specifically so state.

#### § 9. ADOPTION OF LAND-USE REGULATIONS.

The supervisors of any district shall have authority to formulate regulations governing the use of lands within the district in the interest of conserving soil and soil resources and preventing and controlling soil erosion. The supervisors may conduct such public meetings and public hearings upon tentative regulations as may be necessary to assist them in this work. The supervisors shall not have authority to enact such land-use regulations into law until after they shall have



caused due notice to be given of their intention to conduct a referendum for submission of such regulations to the occupiers of lands lying within the boundaries of the district for their indication of approval or disapproval of such proposed regulations, and until after the supervisors have considered the result of such referendum. The proposed regulations shall be embodied in a proposed ordinance. Copies of such proposed ordinance shall be available for the inspection of all eligible voters during the period between publication of such notice and the date of the referendum. The notices of the referendum shall recite the contents of such proposed ordinance, or shall state where copies of such proposed ordinance may be examined. The question shall be submitted by ballots, upon which the words "For approval of proposed ordinance no....., prescribing land-use regulations for conservation of soil and prevention of erosion" and "Against approval of proposed ordinance no. ...., prescribing land-use regulations for conservation of soil and prevention of erosion" shall be printed, with a square before each proposition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose approval of such proposed ordinance. The supervisors shall supervise such referendum, shall prescribe appropriate regulations governing the conduct thereof, and shall publish the result thereof. All occupiers of lands within the district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The supervisors shall not have authority to enact such proposed ordinance into law unless at least a two-thirds ( $\frac{2}{3}$ ) majority of the votes cast in such referendum shall have been cast for approval of the said proposed ordinance. The ap-



proval of the proposed ordinance by a two-thirds ( $2/3$ ) majority of the votes cast in such referendum shall not be deemed to require the supervisors to enact such proposed ordinance into law. Land-use regulations prescribed in ordinances adopted pursuant to the provisions of this section by the supervisors of any district shall have the force and effect of law in the said district and shall be binding and obligatory upon all occupiers of lands within such districts.

Any occupier of land within such district may at any time file a petition with the supervisors asking that any or all of the land-use regulations prescribed in any ordinance adopted by the supervisors under the provisions of this section shall be amended, supplemented, or repealed. Land-use regulations prescribed in any ordinance adopted pursuant to the provision of this section shall not be amended, supplemented, or repealed except in accordance with the procedure prescribed in this section for adoption of land-use regulations. Referenda on adoption, amendment, supplementation, or repeal of land-use regulations shall not be held more often than once in six (6) months.

The regulations to be adopted by the supervisors under the provisions of this section may include:

1. Provisions requiring the carrying out of necessary engineering operations, including the construction of terraces, terrace outlets, check-dams, dikes, ponds, ditches, and other necessary structures;

2. Provisions requiring observance of particular methods of cultivation including contour cultivating, contour furrowing, lister furrowing, sowing, planting, strip cropping, seeding, and planting of lands to water-conserving and erosion-preventing plants, trees and grasses, forestation and reforestation;

3. Specifications of cropping programs and tillage practices to be observed;

4. Provisions requiring the retirement from cultivation

of highly erosive areas or of areas on which erosion may not be adequately controlled if cultivation is carried on;

5. Provision for such other means, measures, operations, and programs as may assist conservation of soil resources and prevent or control soil erosion in the district, having due regard to the legislative findings set forth in section 2 of this act.

The regulations shall be uniform throughout the territory comprised within the district except that the supervisors may classify the lands within the district with reference to such factors as soil type, degree of slope, degree of erosion threatened or existing, cropping and tillage practices in use, and other relevant factors, and may provide regulations varying with the type of class of land affected, but uniform as to all lands within each class or type. Copies of land-use regulations adopted under the provisions of this section shall be printed and made available to all occupiers of lands lying within the district.

#### § 10. ENFORCEMENT OF LAND-USE REGULATIONS.

The supervisors shall have authority to go upon any lands within the district to determine whether land-use regulations adopted under the provisions of section 9 of this act are being observed. Any person, firm, or corporation who shall violate any of such regulations shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than twenty-five dollars (\$25.00) and not more than one hundred dollars (\$100.00) for each such offense, at the discretion of the court. The supervisors are further authorized to provide by ordinance that any land occupier who shall sustain damages from any violation of such regulations by any other land occupier may recover damages at law from such other land occupier for such violation.

#### § 11. PERFORMANCE OF WORK UNDER THE REGULATIONS BY THE SUPERVISORS.

Where the supervisors of any district shall find that any

of the provisions of land-use regulations prescribed in an ordinance adopted in accordance with the provisions of section 9 hereof are not being observed on particular lands, and that such nonobservance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, the supervisors may present to the Circuit Court in the county within which the lands of the defendant may lie, a petition, duly verified, setting forth the adoption of the ordinance prescribing land-use regulations, the failure of the defendant land occupier to observe such regulations, and to perform particular work, operations, or avoidances as required thereby, and that such non-observance tends to increase erosion on such lands and is interfering with the prevention or control of erosion on other lands within the district, and praying the court to require the defendant to perform the work, operations, or avoidances within a reasonable time and to order that if the defendant shall fail so to perform the supervisors may go on the land, perform the work or other operations or otherwise bring the condition of such lands into conformity with the requirements of such regulations, and recover the costs and expenses thereof, with interest, from the occupier of such land. Upon the presentation of such petition, the court shall cause process to be issued against the defendant, and shall hear the case. If it shall appear to the court that testimony is necessary for the proper disposition of the matter, it may take evidence, or appoint a referee to take such evidence as it may direct and report the same to the court with his findings of fact and conclusions of law, which shall constitute a part of the proceedings upon which the determination of the court shall be made. The court may dismiss the petition; or it may require the defendant to perform the work, operations, or avoidances, and may provide that upon the failure of the defendant to initiate such performances within the time specified in the order of the court, and to prosecute the same to completion with reasonable diligence, the supervisors may enter upon

the lands involved and perform the work or operations or otherwise bring the condition of such lands into conformity with the requirements of the regulations and recover the costs and expenses thereof, with interest at the rate of five (5) per centum per annum, from the occupier of such lands. In all cases where the person in possession of lands, who shall fail to perform such work, operations, or avoidances shall not be the owner, the owner of such lands shall be joined as party defendant.

The court shall retain jurisdiction of the case until after the work has been completed. Upon completion of such work pursuant to such order of the court the supervisors may file a petition with the court, a copy of which shall be served upon the defendant in the case, stating the costs and expenses sustained by them in the performance of the work and praying judgment therefor with interest. The court shall have jurisdiction to enter judgment for the amount of such costs and expenses, with interest at the rate of five (5) per centum per annum until paid, together with the costs of suit, including a reasonable attorney's fees to be fixed by the court.

#### § 12. BOARD OF ADJUSTMENT.

A. Where the supervisors of any district organized under the provisions of this act shall adopt an ordinance prescribing land-use regulations in accordance with the provisions of section 9 hereof, they shall further provide by ordinance for the establishment of a board of adjustment. Such board of adjustment shall consist of three (3) members, each to be appointed for a term of three (3) years, except that the members first appointed shall be appointed for terms of one (1), two (2), and three (3) years, respectively. The members of each such board of adjustment shall be appointed by the State soil conservation committee, with the advice and approval of the supervisors of the district for which such board has been established, and shall be removable, upon notice and hearing, for neglect of duty or malfeasance in office, but for no other reason, such hearing to be conducted jointly



by the State soil conservation committee and the supervisors of the district. Vacancies in the board of adjustment shall be filled in the same manner as original appointments, and shall be for the unexpired term of the member whose term becomes vacant. Members of the State soil conservation committee and the supervisors of the district shall be ineligible to appointment as members of the board of adjustment during their tenure of such other office. The supervisors shall pay the necessary administrative and other expenses of operation incurred by the board, upon the certificate of the chairman of the board.

B. The board of adjustment shall adopt rules to govern its procedures, which rules shall be in accordance with the provisions of this act and with the provisions of any ordinance adopted pursuant to this section. The board shall designate a chairman from among its members, and may, from time to time, change such designation. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. Any two (2) members of the board shall constitute a quorum. The chairman, or in his absence such other member of the board as he may designate to serve as acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the board shall be open to the public. The board shall keep a full and accurate record of all proceedings, of all documents filed with it, and of all orders entered, which shall be filed in the office of the board and shall be a public record.

C. Any land occupier may file a petition with the board of adjustment alleging that there are great practical difficulties or unnecessary hardship in the way of his carrying out upon his lands the strict letter of the land-use regulations prescribed by ordinance approved by the supervisors, and praying the board to authorize a variance from the terms of the land-use regulations in the application of such regulations to the lands occupied by the petitioner. Copies of such petition shall be served by the petitioner upon the chairman of



the supervisors of the district within which his lands are located and upon the chairman of the State soil conservation committee. The board of adjustment shall fix a time for the hearing of the petition and cause due notice of such hearing to be given. The supervisors of the district and the State soil conservation committee shall have the right to appear and be heard at such hearing. Any occupier of lands lying within the district who shall object to the authorizing of the variance prayed for may intervene and become a party to the proceedings. Any party to the hearing before the board may appear in person, by agent, or by attorney. If, upon the facts presented at such hearing, the board shall determine that there are great practical difficulties or unnecessary hardship in the way of applying the strict letter of any of the land-use regulations upon the lands of the petitioner, it shall make and record such determination and shall make and record findings of fact as to the specific conditions which establish such great practical difficulties or unnecessary hardship. Upon the basis of such findings and determination, the board shall have power by order to authorize such variance from the terms of the land-use regulations, in their application to the lands of the petitioner, as will relieve such great practical difficulties or unnecessary hardship and will not be contrary to the public interest, and such that the spirit of the land-use regulations shall be observed, the public health, safety, and welfare secured, and substantial justice done.

D. Any petitioner aggrieved by an order of the board granting or denying, in whole, or in part, the relief sought, the supervisors of the district, or any intervening party, may obtain a review of such order in any Circuit Court in the county within which the lands of the defendant may lie, by filing in such court a petition praying that the order of the board be modified or set aside. A copy of such petition shall forthwith be served upon the parties to the hearing before the board and thereupon the party seeking review shall file in the court a transcript of the entire record in the proceed-

ings, certified by the board, including the documents and testimony upon which the order complained of was entered, and the findings, determination, and order of the board. Upon such filing, the court shall cause notice thereof to be served upon the parties and shall have jurisdiction of the proceedings and of the questions determined or to be determined therein, and shall have power to grant such temporary relief as it deems just and proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside, in whole or in part, the order of the board. No contention that has not been urged before the board shall be considered by the court unless the failure or neglect to urge such contention shall be excused because of extraordinary circumstances. The findings of the board as to the facts, if supported by evidence, shall be conclusive. If any party shall apply to the court for leave to produce additional evidence and shall show to the satisfaction of the court that such evidence is material and that there were reasonable grounds for the failure to produce such evidence in the hearing before the board, the court may order such additional evidence to be taken before the board and to be made a part of the transcript. The board may modify its findings as to the facts or make new findings, taking into consideration the additional evidence so taken and filed, and it shall file such modified or new findings which, if supported by evidence, shall be conclusive, and shall file with the court its recommendations, if any, for the modification or setting aside of its original order. The jurisdiction of the court shall be exclusive and its judgment and decree shall be final, except that the same shall be subject to review in the same manner as are other judgments or decrees of the court.

### § 13. COOPERATION BETWEEN DISTRICTS.

The supervisors of any two or more districts organized under the provisions of this act may cooperate with one another in the exercise of any or all powers conferred in this act:

## § 14. STATE AGENCIES TO COOPERATE.

Agencies of this Commonwealth which shall have jurisdiction over, or be charged with the administration of, any State-owned lands, and of any county, or other governmental subdivision of the Commonwealth, which shall have jurisdiction over, or be charged with the administration of, any county-owned or other publicly owned lands, lying within the boundaries of any district organized hereunder, shall cooperate to the fullest extent with the supervisors of such districts in the effectuation of programs and operations undertaken by the supervisors under the provisions of this act. The supervisors of such districts shall be given free access to enter and perform work upon such publicly owned lands. The provisions of land-use regulations adopted pursuant to section 9 of this act shall have the force and effect of law over all such publicly owned lands, and shall be in all respects observed by the agencies administering such lands.

## § 15. DISCONTINUANCE OF DISTRICTS.

At any time after (5) years after the organization of a district under the provisions of this act, any twenty-five (25) occupiers of land lying within the boundaries of such district may file a petition with the State soil conservation committee praying that the operations of the district be terminated and the existence of the district discontinued. The committee may conduct such public meetings and public hearings upon such petition as may be necessary to assist it in the consideration thereof. Within sixty (60) days after such a petition has been received by the committee it shall give due notice of the holding of a referendum, and shall supervise such referendum, and issue appropriate regulations governing the conduct thereof, the question to be submitted by ballots upon which the words "For terminating the existence of the.....  
..... (name of the soil conservation district to be here inserted)" and "Against terminating the existence of the  
..... (name of soil conservation district to be here inserted)" shall be printed, with a square before each propo-

sition and a direction to insert an X mark in the square before one or the other of said propositions as the voter may favor or oppose discontinuance of such district. All occupiers of lands lying within the boundaries of the district shall be eligible to vote in such referendum. Only such land occupiers shall be eligible to vote. No informalities in the conduct of such referendum or in any matters relating thereto shall invalidate said referendum or the result thereof if notice thereof shall have been given substantially as herein provided and said referendum shall have been fairly conducted.

The committee shall publish the result of such referendum and shall thereafter consider and determine whether the continued operation of the district within the defined boundaries is administratively practical and feasible. If the committee shall determine that the continued operation of such district is administratively practicable and feasible, it shall record such determination and deny the petition. If the committee shall determine that the continued operation of such district is not administratively practicable and feasible, it shall record such determination and shall certify such determination to the supervisors of the district. In making such determination the committee shall give due regard and weight to the attitude of the occupiers of lands lying within the district, the number of land occupiers eligible to vote in such referendum who shall have voted, the proportion of the votes cast in such referendum in favor of the discontinuance of the district to the total number of votes cast, the approximate wealth and income of the land occupiers of the district, the probable expense of carrying on erosion control operations within such district, and such other economic and social factors as may be relevant to such determination, having due regard to the legislature findings set forth in section 2 of this act; provided, however, that the committee shall not have authority to determine that the continued operation of the district is administratively practicable and feasible unless at least a two-third ( $\frac{2}{3}$ ) majority of the votes cast in the refer-



endum shall have been cast in favor of the continuance of such district.

Upon receipt from the State soil conservation committee of a certification that the committee has determined that the continued operation of the district is not administratively practicable and feasible, pursuant to the provisions of this section, the supervisors shall forthwith proceed to terminate the affairs of the district. The supervisors shall dispose of all property belonging to the district at public auction and shall pay over the proceeds of such sale to be covered into the State treasury. The supervisors shall thereupon file an application, duly verified, with the secretary of state for the discontinuance of such district, and shall transmit with such application the certificate of the State soil conservation committee setting forth the determination of the committee that the continued operation of such district is not administratively practicable and feasible. The application shall recite that the property of the district has been disposed of and the proceeds paid over as in this section provided, and shall set forth a full accounting of such properties and proceeds of the sale. The secretary of state shall issue to the supervisors a certificate of dissolution and shall record such certificate in an appropriate book of record in his office.

Upon issuance of a certificate of dissolution under the provisions of this section, all ordinances and regulations theretofore adopted and in force within such districts shall be of no further force and effect. All contracts theretofore entered into, to which the district or supervisors are parties, shall remain in force and effect for the period provided in such contracts. The State soil conservation committee shall be substituted for the district or supervisors as party to such contracts. The committee shall be entitled to all benefits and subject to all liabilities under such contracts and shall have the same right and liability to perform, to require performance, to sue and be sued thereon, and to modify or terminate such contracts by mutual consent or otherwise, as the super-



visors of the district would have had. Such dissolution shall not affect the lien of any judgment entered under the provisions of section 11 of this act, not the pendency of any action instituted under the provisions of such section, and the committee shall succeed to all the rights and obligations of the district or supervisors as to such liens and actions.

The State soil conservation committee shall not entertain petitions for the discontinuance of any district nor conduct referenda upon such petitions nor make determinations pursuant to such petitions in accordance with the provisions of this act, more often than once in five (5) years.

#### § 16. SEPARABILITY CLAUSE.

If any provision of this act, or the application of any provision to any person or circumstance, is held invalid, the remainder of the act, and the application of such provision to other persons or circumstances, shall not be affected thereby.

#### § 17. INCONSISTENCY WITH OTHER ACTS.

Insofar as any of the provisions of this act are inconsistent with the provisions of any other law, the provisions of this act shall be controlling.

To Committee on Agricultural and State Fair.

By Senator Attkisson.

S. B. 108. An Act amending and re-enacting Section 4072 of Kentucky Statutes, Carroll's Edition, 1936, relating to advancement of money to defray expenses and partial payment on salaries of the County Tax Commissioner in counties containing a city of the first class, and repealing conflicting laws.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 4072, of the Kentucky Statutes, Carroll's

edition, 1936, relating to county tax commissioners in counties containing cities of the first class, be amended by striking therefrom after the words "advancement of", the words Five Thousand Dollars, (\$5,000.00), and inserting in lieu thereof the words, Five Thousand Five Hundred Dollars, (\$5,500.00), so that the said Section 4072 as amended will read as follows, to-wit:

§ 1. In counties containing cities of the first class, the county tax commissioner shall be entitled to receive an advancement of Five Thousand Five Hundred Dollars, (\$5,500.00) per month to defray necessary official expenses and partial payment upon the salaries of himself and his deputies and assistants, and the Auditor of Public Accounts shall on the first of each calendar month draw his warrant on the treasurer in favor of such county tax commissioner for such sum. The sum of such advancements shall be deducted from the total amount found to be due such tax commissioner when yearly settlements are made. Should the tax commissioner in such county die, resign or be removed from office, or should the office of county tax commissioner in such county for any cause become vacant, the sums advanced hereunder shall be deducted from the total sum due for making assessment.

All laws and parts of laws in conflict herewith are hereby repealed.

To Committee on Appropriations.

By Senator Attkisson.

S. B. 109. An Act creating the office of additional deputy to the coroner of the county in all counties of this Commonwealth containing a city of the first class.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That in all counties in this Commonwealth containing a city of the first class the coroner thereof is hereby empowered to appoint one deputy in addition to the one now provided for in section 537b-2, Carroll's Kentucky Statutes, 1936 Edition. The duties and compensation of said additional deputy shall be the same as now provided for in sections 537b-3, 537b-4 and 537b-5, Carroll's Kentucky Statutes, 1936 Edition.

To Committee on Appropriations.

By Senator Attkisson.

S. B. 110. An Act creating the office of matron for jails in counties containing a city of the first class and providing for the duties and compensation thereof.

Said bill is as follows.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That in all counties of this Commonwealth containing a city of the first class the jailer shall appoint a colored matron to attend and supervise female colored prisoners. The matron shall perform such duties as the jailer may direct, and shall receive as compensation for her services One Hundred Dollars (\$100.00) per month, to be paid by the county.

§ 2. All laws or parts of laws in conflict herewith are hereby repealed.

To Committee on Appropriations.

By Senator Attkisson.

S. B. 111. An Act amending and re-enacting Section 1777, of Kentucky Statutes, Carroll's Edition, 1936, relating

to assessors in counties having two hundred thousand population, increasing the maximum annual salary to be paid to the assessor, (County Tax Commissioner from and after January 1, 1942, from Four Thousand Dollars per annum to Five Thousand Dollars per annum, and increasing the maximum annual salary to be paid to the first four deputy or assistant assessors, from Two Thousand Dollars per annum to Two Thousand Five Hundred Dollars per annum, and repealing conflicting laws.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 1777 of the Kentucky Statutes, Carroll's edition 1936, relating to assessors in counties having two hundred thousand (200,000) population, be amended by adding thereto after the words "declaring his office vacant." the following: Provided, however, that from and after January 1, 1942, the assessor (County Tax Commissioner) shall be required to pay to the auditor the amount so received as hereinabove set out, only the amount in excess of Five Thousand Dollars (\$5,000.00), after the payment of his deputies or assistants and all of the expenses of his office, and,

Further that the said Section be amended by striking therefrom after the words "the annual salary of the" words "chief deputy" and inserting in lieu thereof the words first four deputies, and,

Further be amended by striking therefrom after the words "and the salary of the" the words "chief deputy" and inserting in lieu thereof the words first four deputies, so that the Act as amended will read as follows to wit:

The Clerk of the court of appeals, and each assessor, in a county having a population of over two hundred thousand, shall annually, in the month of January, report to the auditor, under oath, the amount received by him on account of his official duties or position, from all sources during the pre-

ceding year, as well as the amount paid out by him for deputies or assistants, giving the amount paid to each and for expenses of his office; and if it shall appear from such statement that any such officer received as compensation on account of his office, from all sources, more than four thousand dollars after the payment of his deputies or assistants and all the expenses of his office, such officer shall, with such statement, pay to the auditor the amount so received in excess of four thousand dollars, and if any officer shall fail to report as required by this section, he shall be fined not less than, one, nor more than five hundred dollars, and, upon conviction, a judgment shall be entered declaring his office vacant. Provided, however, that from and after January 1, 1942, the assessor (County Tax Commissioner) shall be required to pay to the auditor the amount so received as hereinabove set out, only the amount in excess of Five Thousand Dollars (\$5,000.00), after the payment of his deputies or assistants and all of the expenses of his office. The annual salary of each deputy or assistant assessor shall be fixed by the judge of the county court by an order entered of record, and shall not exceed six hundred dollars per annum: Provided, that in the counties containing a population of two hundred thousand or over, the annual salary of the first four deputies, and each deputy or assistant assessor, transfer clerk and draughtsman shall be fixed by the judge of the county court by an order entered of record, and the salary of the first four deputies shall not exceed twenty-five hundred dollars per annum, and the salaries of the other deputies or assistant assessors and draughtsman shall not exceed two thousand dollars per annum, and the salary of the transfer clerk shall not exceed twelve hundred dollars per annum: Provided, further, that the total amount allowed for salaries for such assessor, chief deputy, deputy or assistant assessors, draughtsman and transfer clerk, and all other expenses of such office, shall not exceed in the aggregate the compensation now allowed by law to such assessor and his deputies and for the other expenses of his



office; a copy of such, as well as a copy of any change made therein, shall be filed with the auditor by the clerk of the county court, when made. The salaries of the deputies of the clerk of the court of appeals shall be fixed by an order of the court of appeals, a copy of which order shall be filed with the auditor by the clerk of said court, when made. If it shall appear from the reports required to be made to the auditor by the clerk of the court of appeals under this section, that the amount earned and received by said clerk on account of his office is not sufficient to pay him four thousand dollars, together with the salaries of his deputies or assistants and the other legitimate expenses of his office, in any year, then said officer may retain out of money earned or received by him on account of his official duties in said office during the year or years following, enough to make up such deficit. All laws and parts of laws in conflict herewith are hereby repealed.

To Committee on Appropriations.

By Senator McDonald.

S. B. 112. An Act repealing and re-enacting Section 3767, Carroll's Kentucky Statutes, Baldwin's 1936 Edition, relating to the formation of limited Partnerships.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 3767 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, relating to the formation of limited partnerships, be and the same is repealed and re-enacted so that it shall read as follows, to-wit:

3767. LIMITED PARTNERSHIPS; FORMATION OF.—Limited partnerships for the transaction of merchandise, agricultural, mechanical and manufacturing business,

*or for acting as agents for Insurance Companies* or for the mining and transporting of coal, may be formed upon the terms, and subject to the conditions and liabilities, prescribed in this chapter; but none shall be formed for the purpose of banking, brokerage, or insurance.

To Committee on Insurance.

By Senator McDonald.

S. B. 113. An Act repealing Chapter 129 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being Sections 4712 to and including 4748e-4, relating to Turnpike, Gravel and Plank Roads.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Chapter One Hundred Twenty-nine (129) of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being Sections Four Thousand Seven Hundred Twelve (4712) to and including Four Thousand Seven Hundred Forty-eight (4748)e-4, relating to Turnpike, Gravel and Plank Roads, be and the same is hereby repealed.

To Committee on Roads and Highways.

By Senator McDonald.

S. B. 114. An Act to amend and re-enact Sections 4325 and 4329 of Carroll's Kentucky Statutes, Baldwin's 1930 and 1936 Editions, relating to public roads, providing for a county road engineer, making appointment thereof mandatory in

counties with a city of the first, second, third or fourth class, providing exceptions thereto, and extending his duties.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 4325 of Carroll's Kentucky Statutes, Baldwin's 1930 and 1936 Editions be and the same is hereby amended by inserting after the word "State" in line five, as it appears in said section, the following: "containing within its boundaries a city of the first, second, third or fourth class, shall, within thirty days after this law becomes operative and every two years thereafter, appoint a county road engineer, who shall be approved and confirmed by the fiscal court of said county; and the county judge of each of the counties of this State not containing a city of one of the four above mentioned classes," and by removing the period and inserting a comma after the word "appointed" in the fourth line of the second literary paragraph of said section, as it now appears, and insert the following: "but in counties not now having a county road engineer, the term of the first so appointed under this act shall be for a term of two years from and after the first day of January 1938, or until his successor is appointed and qualified," and following the period in the eighth line of said second paragraph of said section, as it now appears, strike out the following: "The term of the first one appointed, regardless of when the appointment was made, shall expire January 1, 1914.", and by striking the last literary paragraph from said section, as the same now appears, and insert in lieu thereof, the following: "Nothing contained herein shall change or modify the law, as now written and in force relating to the county road engineers in counties with a population of more than 200,000 as set forth in section 4356L-1 to section 4356L-5, inclusive, of Carroll's Kentucky Statutes, Baldwin's 1930 and 1936 Editions," so that said section, as amended and re-enacted, will read as follows:

There is hereby created in the several counties of the State of Kentucky the office of county road engineer. The county judge of each of the counties of this State *containing within its boundaries a city of the first, second, third or fourth class, shall, within thirty days after this law becomes operative and every two years thereafter, appoint a county road engineer who shall be approved and confirmed by the fiscal court of said county, and the county judge of each of the counties of this State not containing a city of one of the four above mentioned classes, by and with the consent of the fiscal court may within thirty days after this law becomes operative, on or before the first day of January, nineteen hundred and fourteen, and every two years thereafter, appoint a county road engineer, who shall be either a reputable civil engineer or a man who has had practical experience as a road supervisor or builder for two years and who shall have passed a creditable examination by the State Commissioner of Public Roads or one of his representatives.*

Nothing in this section shall prevent the present county road engineers from serving the term for which they are elected or appointed; *but in counties not now having a county road engineer, the term of the first so appointed under this act shall be for a term of two years from and after the first day of January 1938, or until his successor is appointed and qualified.* Such county road engineer, except the first, as appointed shall serve a period of two years from and after the first day of January, and until his successor is appointed and qualified. Vacancies in the office of county road engineer shall be filled by appointment for the unexpired term by the county judge of the county, by and with the consent and approval of the fiscal court. The county road engineer shall receive as a salary not less than six hundred dollars (\$600.00) per annum, to be fixed by the fiscal court, which shall be paid as provided in case of other county officials. The county surveyor of the county elected at the last preceding general election may receive such appointment, pro-

vided he be competent as provided by this chapter, and for such service he shall receive the compensation fixed by the fiscal court as provided in this section in lieu of all fees except such fees as are allowed by the law for his services as county surveyor. It shall be the duty of the county clerk to give written notice to the appointees provided in this chapter of their appointment as soon thereafter as practical, and each person appointed shall, within ten days after having been notified of such appointment, qualify by giving such bond as the county court may direct for the faithful performance of his duties, and shall also take oath to well and truly perform the duties thereof. The county road engineer shall have an office, with proper furniture and equipment, at the county seat of the county. In all counties of the state levying a road tax amounting to over fifty thousand dollars (\$50,000.00), the fiscal court shall furnish the county road engineer with transportation in performing duties connected with the superintending, construction, repair and maintenance of the roads in the county. To this end the fiscal court may purchase or rent teams or automobiles which may be used by the county judge or committees of the fiscal court or board of commissioners for inspection of the roads and to determine recommendations on needed work and repairs; provided, that in counties where the fiscal court does not provide for a county road engineer, the services in this act directed to be performed by the county road engineer, except as otherwise herein provided, shall be performed by the county surveyor, or by some other person designated by the county court, and for such service shall receive the same compensation allowed by law to commissioners for dividing land.

*Nothing contained herein shall change or modify the law, as now written and in force relating to the county road engineers in counties with a population of more than 200,000 as set forth in sections 4356L-1 to 4356L-5, inclusive, of Carroll's Kentucky Statutes, Baldwin's 1930 and 1936 Editions.*

That section 4329 of Carroll's Kentucky Statutes, Bald-



win's 1930 and 1936 Editions, be and is hereby amended by adding to said section, as it now appears, the following: "and further provided, that in counties having a county road engineer, the appointments made and the labor employed, as provided by this section, shall be by the county road engineer instead of the fiscal court or county judge", so that same when amended shall read as follows:

The fiscal court or county judge shall employ such agent or agents in the different road precincts of the county as may be necessary to carry out the provisions of this chapter, and may summarily discharge such employees at pleasure; such employees shall perform service upon the public roads of the county in whatever station employed, according to the direction and in manner prescribed by the fiscal court or county judge. Such employees may receive such compensation per day as may be allowed by the fiscal court; provided, that every able-bodied man employed to do manual or day labor under the provisions of this chapter on the public roads shall receive the prevailing wages of the vicinity in which the work is done, which shall not be less than one dollar (\$1.00) nor more than three dollars (\$3.00) per day, according to services rendered, except in the case of necessary skilled labor, foremen and assistant engineers, who shall receive not more than five dollars (\$5.00) per day; provided, that a day's work shall consist of not less than eight hours of actual labor; *and further provided, that in counties having a county road engineer, the appointments made and the labor employed, as provided by this section, shall be by the county road engineer instead of the fiscal court or the county judge.*

To Committee on Appropriations.

By Senator McDonald.

S. B. 115. An Act relating to Roads and Highways.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. All roads and highways heretofore established as a part of the Primary System of Public Highways and all other public roads within the Commonwealth of Kentucky, now or hereafter established, shall be deemed a part of the State Primary Road System, and may be constructed, reconstructed, improved and maintained by the Department of Highways.

§ 2. The Department of Highways hereby is vested with full authority to determine what public highways shall be constructed, reconstructed, improved and maintained by said Department. Said Department is further vested with full authority to determine the type of construction or reconstruction, improvement or maintenance that shall be made of any road or part of a road or highway which said Department proposes to construct, reconstruct, improve or maintain. Before advertising for bids for the construction or reconstruction of any highway, the Department of Highways may determine the type or types of improvement desired, and may advertise and receive bids for the construction of only the particular type or types of construction so determined.

§ 3. The Department of Highways is hereby vested with full authority to select the route for the construction, reconstruction or improvement of any public highway to be constructed, reconstructed or improved by said Department, and may deviate from any existing route whenever it deems such deviation proper.

§ 4. Nothing in this Act shall be construed as requiring the Department of Highways to construct, reconstruct, improve or maintain any public highway except as may be determined by the Department of Highways in the exercise of its discretion.

§ 5. The terms "roads" and "highways" as used in this Act shall be construed to include bridges and their approaches.

All powers and duties of the Department of Highways now or hereafter vested or imposed by law relating to the construction, reconstruction, improvement or maintenance of primary roads or of the Primary System of Highways, shall apply fully to all public highways now established or hereafter established or embraced within the provisions of this Act.

§ 6. All laws or parts of laws in conflict herewith, to the extent of such conflict hereby are repealed.

To Committee on Roads and Highways.

By Senator McDonald.

S. B. 116. An Act to amend and re-enact Section 1845 of Carroll's Kentucky Statutes, Baldwin's 1930 Edition, relating to compensation of members of the fiscal court.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That section 1845 of Carroll's Kentucky Statutes, Baldwin's 1930 and 1936 Editions, be amended by inserting a period after the word "thereof" in line twelve of said section as it now appears and by striking out the remaining words of said section as follows: "except in those counties that maintain a system of free turnpikes under the control and supervision of the fiscal court", so that said section, when amended, shall read as follows:

The members of the court, except the county judge, shall be entitled to \$6.00 per day for each day they are engaged in holding fiscal court, and also for each day they are engaged in actual attendance at the meeting of said court; said com-

pensation to be allowed by said court and paid out of the county levy; provided, that no compensation shall be allowed the members of said court for attendance at the meetings of the committees thereof.

To Committee on Appropriations.

By Senator McDonald.

S. B. 117. An Act prohibiting electioneering, soliciting of votes, posting or distribution of handbills, circulars, placards or banners of a political nature and candidate cards on election day, and prohibiting the employment of persons to perform such services.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Electioneering, soliciting of votes, posting or distribution of handbills, circulars, candidate cards, placards and banners of a political nature by which the merits or demerits of a candidate or candidates for public office are advertised or by which the name of a particular candidate is presented to the voters, and the employment of a person or persons to electioneer, solicit votes or post and distribute handbills, circulars, candidate cards, placards or banners of a political nature are hereby prohibited on any special, primary or regular election day. Posting at any time of cards, placards or banners advertising the name or names of a candidate or candidates within five hundred (500) feet of a polling place is hereby prohibited. This act shall not prohibit the posting outside any polling place of educational ballots for the convenience of the voters, provided that such educational ballots shall not emphasize the name of any candidate. The purpose of this act is to assure the voters of an opportunity to visit

the polls and vote on election day in peace and quiet, without interference from candidates, their friends or helpers.

Whoever shall violate any provision of this act shall, on conviction, be fined not less than twenty dollars nor more than five hundred dollars for each offense or be imprisoned not less than ten days or more than six months, or both so fined and imprisoned, at the discretion of the jury.

To Committee on Kentucky Statutes No. 1.

By Senator E. C. Moore.

S. B. 118. An Act amending Chapter 42 of the Acts of the General Assembly of 1936, being Section 4399-3, Carroll's Kentucky Statutes, 1936 Edition, relating to independent school districts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Chapter forty-two (42) of the Acts of the General Assembly of nineteen thirty six (1936) being Section four thousand three hundred ninety-nine-three (4399-3), Carroll's Kentucky Statutes, 1936 Edition, be and the same hereby is amended by repealing said Section in its entirety and re-enacting same so that as amended and re-enacted said Section will read as follows, to wit:

Section 4399-3. *Independent school districts.* All school districts embracing cities of the first five classes together with the territory within their limits, including any territory which has heretofore been added for school purposes outside of the limits of such cities or districts, and any territory which may be included by any future change in the limits of such cities, and all independent graded common school districts having a school census enumeration of *two hundred* (200) or more white children shall hereafter be known and



designated as independent school districts, provided that no such district other than cities of the first, second, third, fourth, and fifth classes, operating as independent districts at the time this Act becomes effective, shall continue to operate when its school census enumeration of white children falls below *two hundred (200)* pupils unless it appears to the State Board of Education that the district can maintain a more efficient program of school service by operating as an independent district. The State Board of Education may permit an independent graded common school district existing at the time of the passage of this Act with a census enumeration of white children below *two hundred (200)* to operate as a temporary independent school district for *one-year* periods beginning with July first (1), *nineteen thirty-eight (1938)*, if it appears to the State Board of Education that such district can maintain a more efficient program of school service by operating as a temporary independent district, and the decision of the State Board of Education shall be final; provided, at the end of each *one-year* period the State Board of Education may permit such independent district to operate for an additional *one-year* period on the condition that such inspection as the State Board of Education may make shows that it is operating a school in accordance with the school law and the standards, rules, and regulations set up by the State Board of Education. The State Board of Education may by order make any temporary independent school district a part of the county district whenever the same is not complying with the school law and the standards, rules, and regulations of the State Board of Education, and after it has been given a reasonable time, to be fixed by the State Board of Education, within which to so comply. The first application of such district to operate as a temporary independent district shall be filed with the State Board of Education not later than July first (1), *nineteen thirty-eight (1938)*. Each subsequent application of such independent district to operate as a temporary independent district for an additional *one-year* period

shall be filed with the State Board of Education not later than May first (1). Each independent school district shall maintain at least an approved twelve-grade school service for the white children residing in its district. Provided, however, any independent school district that maintains within the district at least an approved ten-grade school service for the white children residing in its district, may furnish free transportation for white children residing within the district to attend school in an adjoining district for completing the eleventh and twelfth grade school work and provide by contract with an adjoining district, which maintains at least an approved twelve-grade program of school service, for such children procuring eleventh and twelfth grade service in such adjoining district. Provided further that each independent school district shall provide by establishment or by contract with another district for at least an approved twelve-grade program of school service for its colored children. All laws in conflict herewith are hereby repealed.

To Committee on Education.

By Senator Gilbert.

S. B. 119. An Act to amend an act, entitled an act to amend an act, in relation to the Kentucky State Board of Dental Examiners, which act became effective June 5, 1932, and being Section 2636 with its 23 subsections of Carroll's Kentucky Statutes, and to regulate the practice of dentistry in the State of Kentucky.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That section 2636 Carroll's Edition of the Kentucky Statutes, with its twenty-three sub-sections be repealed,

amended and re-enacted so that when repealed, amended and re-enacted it shall read as follows:

§ 1. \*That the Kentucky State Board of Dental Examiners heretofore created be continued, to consist of five practicing dentists, whose duty it shall be to carry out the purposes and enforce the provisions of this Act as hereafter specified. The members of said board shall be appointed by the Governor from a list of three names, to be recommended by the Kentucky State Dental Association, at its annual meeting, and at the time of their appointment upon said board must have been actual residents and legally licensed practicing dentists of this State for a period of five years or more immediately preceding their appointment:

Provided, however, That no person shall be eligible to appointment to said board who is in any way connected with or interested in any dental college or dental department of any institution of learning or dental supply business. The term for which the members of said Board shall hold office shall be five years, provided the present members of the Board in office at the time of the passage of this Act shall continue in office until their respective terms have expired and until their successors are appointed and qualified. All vacancies in said board shall be filled by the Governor from said list.

§ 2. Said Board of Dental Examiners shall choose one of its members President, and one Secretary-Treasurer, thereof, at an annual meeting on the first Tuesday in June of each year. Said board may meet oftener if necessary in the discretion of the board at such places as it may deem proper, for the examination of applicants who desire to practice dentistry in this State, and for the transaction of any other business that may come before it. Said board shall keep a record book in which shall be registered the names, addresses, license numbers, of all persons legally entitled to practice dentistry in this State. A majority of the members of said board shall at all times constitute a quorum for the transaction of business, and the proceedings of said Board shall be

recorded in a minute book open at all reasonable times to public inspection. The Secretary-Treasurer shall execute to the said board bond with approved security for the faithful performance of his duties.

Said Board of Dental Examiners shall have power to make rules and regulations for its own conduct and procedure, may provide for the affiliation with the National Association of Dental Examiners and send delegates to its meetings and pay the expense thereof; to select the subjects and the standard of proficiency and percentage for examinations to practice dentistry; to employ an attorney to advise and assist it in carrying out and enforcing the provisions of this Act and pay him a reasonable compensation therefor, and to regulate the practice of dentistry in this State not contrary to law.

§ 3. No person shall practice dentistry in this State or attempt to do so after the passage of this Act without first applying for and obtaining a license for such purpose from the said Kentucky State Board of Dental Examiners, and registering such license as herein provided, and this provision applies to all persons whether they have heretofore practiced dentistry or not in this State, except such persons as have been heretofore licensed and registered. Application shall be made to the said board in writing for license and shall in every instance be accompanied by the examination fee of forty dollars which sum is authorized to be charged for each examination by said Board. The applicant must be of good moral character, at least twenty-one years of age at the time of making the application, and the application of each person seeking a license must be accompanied by satisfactory evidence to said board that the applicant so applying, is a graduate of and has a diploma from the faculty of a reputable dental college, school, or dental department of a reputable university *rated as acceptable by the Board of Dental Examiners*. The Board of Dental Examiners shall rate dental colleges, dental schools, or dental departments of a university



*or it may accept the ratings as issued by accrediting bodies approved by the Board of Dental Examiners.*

Examinations must be clinical and written and of such a character as to satisfactory test the qualifications of the applicant to practice dentistry, and the board may, in its discretion, refuse to grant license to any person they find guilty of cheating, deception, or fraud during such examination. Examination papers and clinical examinations results where possible shall be retained by the Secretary of the board for a period of two years.

§ 4. Every person licensed to practice dentistry in this State by the said Kentucky State Board of Dental Examiners, as herein provided shall, before beginning the practice of dentistry, cause said license to be registered with the county clerk of each county in which such person desires to engage in the practice of dentistry by appearing before such clerk and filing his affidavit, showing that he has been examined and licensed as herein provided, and the county clerk of each county before whom such persons appear shall attest the filing of the license certificate in duplicate on blanks furnished to the licensee by the Board, one copy to be retained by the licensee and the other copy to be forwarded to the Secretary of the Board by the licensee, and the county clerk of each county is authorized to receive a registration fee of fifty cents for each registration.

§ 5. The license to practice dentistry herein provided, and the certificate of registration (together with the annual license renewal certificate) shall at all times be displayed in a conspicuous place in his or her office wherein he or she shall practice the profession of dentistry, and if there are more dentists than one practicing or employed, in any dental office, the proprietor of such office shall post and display or cause to be posted or displayed in like manner the name, license, and registration certificate of each dentist so practicing and so employed therein. Any person practicing dentistry within the meaning of this Act, who shall fail to so post and display,



or cause to be posted or displayed, the name, license, and registration certificate of himself and any person practicing or employed to practice as a dentist in his or her dental office shall be guilty of a misdemeanor, and upon conviction thereof they shall be subject to a fine of not less than twenty-five dollars nor more than fifty dollars, (\$50.00), for the first offense, and for every subsequent offense he or she shall be subjected to a fine of not less than one hundred dollars nor more than two hundred and fifty dollars, or by imprisonment, for a period of not less than sixty days or by both such fine and imprisonment, and he or she shall whenever requested, exhibit such license to members of the Board of Dental Examiners or its authorized agent.

§ 6. The State Board of Dental Examiners may refuse to issue licenses for any of the following causes:

The presentation of the board of any diploma, license, or certificate illegally or fraudulently obtained, or one obtained from an institution which is not reputable, or an unrecognized or irregular institution or state board, or the practice of any fraud or deception, or failure to meet the required standard of proficiency or percentage for examinations fixed by the State Board.

§ 7. Said Kentucky State Board of Dental Examiners may revoke or suspend or refuse to renew, the certificate of license of any dentist for any one or any combination of the following causes:

(1) A. His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction or a certified copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(B) For renting or loaning to any person *or persons* his or her license or diploma to be used *by such person or persons or other person or persons* as a license or diploma; or *for illegally or fraudulently obtaining a license from the board.*

(C) For unprofessional conduct, or for gross ignorance or inefficiency in his profession.

(2) Unprofessional conduct shall mean any one or any combination of the following acts:

A. Employing what are known as "cappers" or "steerers" to obtain business; or employing directly or indirectly any student or any suspended or unlicensed dentist to perform operations of any kind, or to treat lesions of the human teeth or jaws, or correct malpositioned formations thereof; or

B. The obtaining of any fee by fraud or misrepresentation; or wilfully betraying any professional secrets; or habitual intemperance or gross immorality, or the commission of a criminal operation; or advertising to use drugs, patents, nostrums, or proprietary medicines; or splitting of fees; or

C. Making use of any advertising statements of a character tending to deceive or mislead the public; or advertising professional superiority; or the performance of professional service in a superior manner; or advertising prices for professional service; or advertising credit or terms of credit; or advertising by means of large displays; or by electric signs, or by any illuminated sign; or any sign that sets forth more than the name, profession, title (such as D. D. S. or D. M. D.) and office hours of the dentist, the lettering or such sign must not exceed six inches in height; or by advertising by means of a sign or display which contains or is a representation or reproduction of a tooth, teeth, bridge work or any portion of the human head; or advertising free dental work, or free examinations; or advertising to guarantee any dental service; or to perform any dental operation, or act, painlessly; or

D. By employing or making use of advertising solicitors or free publicity press agents; or to announce their profession to the public in any manner other than as set forth in this Statute, and by professional card, which may contain only the name, title, (such as D. D. S. or D. M. D.), address, telephone number and office hours; provided, however, that any dentist

*that does not confine himself or herself to any one branch of dental practice may also specify that his practice is limited to a specific branch of the dental practice and set forth the title of that branch.*

(3) Large displays as used in this act shall mean any sign or display, the lettering of which is more than six inches in height.

§ 8. The proceedings under the immediately preceding section; namely, Revocation or Suspension of License, may be taken by the Board from the matters within its knowledge, or may be taken upon the information of another; provided, however, that if the informant is a member of the board, the other members of the board shall constitute the board for the purpose of finding judgment of the accused. All accusations must be in writing, verified by some party familiar with the facts therein charged, and three copies thereof must be filed with the secretary of the board. Upon receiving the accusation the board shall, if it deems it sufficient, make an order setting the same for hearing, and requiring the accused to appear and answer it at said hearing, at a specified time and place, and the secretary shall cause a copy of the order and of the accusation to be served upon the accused at least 10 days before the day appointed in the order for said hearing. The accused must appear at the time appointed in the order and answer the charges and make his defense to the same, unless for sufficient cause the board assigns another day for that purpose. If he does not appear the board may proceed and determine the accusation in his absence. If the accused plead guilty or refuses to answer the charges, or, upon the hearing thereof, the board shall find them or any of them true, it may proceed to a judgment of either revoking his license or suspending it. The Board and the accused may have the benefit of counsel, and the board shall have power to administer oaths, take the depositions of witnesses in the manner provided by law in civil cases and compel them to attend before it in person the same in civil cases, by subpoena

issued over the signature of the secretary and the seal of the Board and in the name of the people of the State of Kentucky. Upon the revocation of any license the fact shall be noted upon the records of the board of dental examiners and the license shall be marked as cancelled upon the date of its revocation. The secretary of the board shall, upon judgment of suspension or revocation being entered, transmit to the county recorder wherein the license of the licensee affected by such judgment is recorded a copy of such judgment order, certified to as such by said secretary of the board, for record, and the same shall be recorded in the same manner and the same book wherein is kept the record of the certificate to practice dentistry. In case of a revocation of a license by the board the licensee whose license shall have been revoked by the said board shall have the right to appeal from said revocation within thirty (30) days of the cancellation of said license. Such appeal shall be to the circuit court in and for the county in which was held the meeting of the board in which such revocation was made. In case a person desires to take such an appeal he shall serve, or cause to be served, upon the secretary of said board a written notice of such an appeal, and shall file in the office of such secretary an appeal bond with good and sufficient surety, to be approved by such secretary, to the State of Kentucky, conditioned for the speedy prosecution of such appeal and the payment of such costs as may be charged against him upon such appeal. Such secretary, within ten (10) days after the service of said notice of appeal, and the filing and approval of said bond, shall transmit to the clerk of the circuit court, to which said appeal is taken, a certified copy under the seal of said board of accusations on which the revocation was based, the ground for appeal, together with the notice and bond of appeal. The clerk of such court shall thereupon docket such appeal causes and they shall be tried in all respects as ordinary civil actions and like proceedings shall be had thereon. Either party may appeal from the judgment of this circuit court to the Court of Appeals in the



manner as civil actions may be appealed thereto. The judgment shall be stayed from the date of the approval of said bond until final determination of said appeal.

§ 9. Any failure, neglect or refusal on the part of any person obtaining a license to practice dentistry from the State Board of Dental Examiners, to register said license with the county clerk of some county in this State within ninety days from the date of issual of such license, or on removal to another county within the State, to cause his license to be registered in the same manner as above provided, shall work a forfeiture of such license, and no license when once forfeited shall be restored except upon payment to the said board of the sum of twenty-five dollars for such neglect, or refusal to register such license.

§ 10. In order to provide the means for carrying out and enforcing the provisions of this Act, the said board shall charge each person applying for an examination for a license to practice dentistry in this State an examination fee of forty dollars, and in addition thereto, a fee of five dollars for every license and five dollars for every duplicate license issued by said board, and out of the funds coming into possession of the said board under the provisions of this Act, the members of said board shall each receive as compensation the sum of ten dollars for each day actually engaged in the duties of the office, and all necessary expenses incurred in attending the meetings of said board; provided that the secretary of the board shall be allowed reasonable salary to be fixed by the board and no per diem: All expenses shall be paid from the fees and penalties received and recovered by the board under the provisions of this Act; provided that no part of said expenses shall be paid out of the State Treasury. All money received in excess of said per diem allowances and other expenses, herein provided shall be held by the Secretary-Treasurer of said board as a special fund for meeting the other expenses of said board, and for such use as the said board may deem necessary in the enforcement of this Act, and said



board shall make an annual report of its proceedings to the Governor on or before the 31st day of December each year, showing all money received and disbursed by it pursuant to this Act.

§ 11. On or before the 31st day of December each year, every dentist legally licensed to practice dentistry in this State shall transmit to the Secretary of the said Board of Dental Examiners his signature and address, together with the fee of three dollars and the number of his or her registration certificate, and receive therefor a renewal license certificate. Provided that the license shall not be renewed, if the holder thereof has not been in active practice for five years immediately preceding. Any license granted by said board shall be cancelled and annulled if the holder thereof fails to secure the renewal certificate herein provided for by March 1st of each year, provided any license thus cancelled may be restored by the board upon the payment of fee of twenty-five dollars if paid within one year after such cancellation.

§ 12. Any person filing or attempting to file as his own the diploma or license of another, or a forged affidavit of identification or qualification, shall be deemed guilty of a felony and be punished upon conviction by imprisonment in the penitentiary of not less than one or more than five years.

Any person who shall assist any applicant to cheat or deceive the examining board or member thereof, or who shall give or attempt to give assistance to any applicant in the course of his or her examination, or assist any applicant *to fraudulently obtain any license to which the applicant is not entitled* shall upon conviction thereof be adjudged guilty of a misdemeanor.

§ 13. Any person shall be regarded as practicing dentistry within the meaning of this Act, who shall diagnose, *or profess to diagnose*, x-ray, or treat or profess to treat, any of the diseases or lesions of the oral cavity, teeth, gums, maxillary bones (or their dependent tissues), or extract teeth, or shall prepare or fill cavities in human teeth, correct malposition of

teeth or jaws, or supply artificial teeth as substitutes for natural teeth, or administer anesthetics, general or local, or any other practice included in the curricula of recognized dental colleges, or who shall use the word "Dentist", dental surgeon, dental laboratory the letters D. D. S., D. M. D., or other letters or titles in connection with his or her name, or in any other manner represent themselves as being engaged in the practice of dentistry. Provided, that nothing in this Act shall be so construed as to prevent regularly licensed physicians and surgeons from extracting teeth or treating any disease coming within the province of the practice of medicine.

§ 14. All dentists of this State shall be exempt from service as jurors in any of the courts of this State.

§ 15. All licenses issued by said board shall bear a serial number, the full name of the applicant, the date of the issue, the seal of the board, and be signed by a majority of the members, and attested by its President and Secretary.

§ 16. It shall be unlawful for any person or persons to offer to practice dentistry or dental surgery under the name of any company, association, or corporation, and every person or persons practicing or offering to practice dentistry or dental surgery, shall practice under his or her own respective name or names only, and shall not use his name in connection with that of another dentist.

§ 17. Any person who shall practice or attempt to practice dentistry in this State without having been licensed and registered for that purpose, or who has had his license revoked or who shall at the time have his license suspended, as herein provided, or who shall violate any of the provisions of this Act, for which no specific penalty has been provided herein, shall be subject to fine of not less than one hundred dollars nor more than five hundred dollars for the first offense. Each offense shall constitute a practicing of dentistry within the meaning of this Act and each day that a person shall hold himself out as practicing dentistry within the meaning of this Act, and each day that a person shall hold himself out as

practicing in any name except his own shall be deemed a separate offense. Any person who shall be guilty of a second offense shall be deemed guilty of a felony and upon conviction shall be punished by a fine of one hundred dollars nor more than five hundred dollars or imprisonment of six months or both. The opening of an office for the purpose of practicing dentistry, or to announce to the public in any way a readiness to do any act defined herein as being dentistry, shall be deemed to engage in the practice of dentistry, within the meaning of this Act.

§ 18. All fees, imposed and collected under the provisions of this Act, shall be paid to the Secretary-Treasurer of the Kentucky State Board of Dental Examiners for the use of said Board.

§ 19. Legally licensed druggists of this State may fill prescriptions of legally licensed dentists of this State for any drug necessary to the practice of dentistry. Dentists may sign death certificates the same as physicians, when necessary in the line of their profession.

§ 20. This Act shall not prevent students from performing dental operations under the supervision of competent instructors within the dental school, college, or dental department of a university recognized by the Kentucky State Board of Dental Examiners: Provided, the board at its discretion may authorize the students of any dental college, dental school, or dental department of a university to practice dentistry, in any of the state or municipal institutions, or public schools, or under the board of health, or public clinic, or charitable institution; provided they are at all times under the direct supervision of a licensed dentist in Kentucky, who is an instructor of the institution at which the students are studying.

The provisions of this Act are severable, and if any of its provisions shall be held unconstitutional the decisions of the courts shall not affect or impair any of the remaining provisions of this Act. It is hereby declared as a legislative intent

that this Act would have been adopted had not such unconstitutional provisions been included therein.

§ 21. All laws or parts of laws in conflict with this Act and subsections 15, 16, 17 of the Act of 1912, Kentucky Statutes, section 2636, are hereby repealed.

To Committee on Revenue and Taxation.

By Senator McDonald.

S. Res. 26. Resolution authorizing W. H. Housman to sue the Commonwealth of Kentucky and the State Highway Commission (Now Department of Highways), either or both.

Said resolution is as follows, viz.:

WHEREAS, W. H. Housman is now and was during all the times herein mentioned the owner of a certain tract of real estate located in the city of Mayfield, Graves County, Kentucky, consisting of one city block 360 feet square; and

WHEREAS, the State Highway Commission (now Department of Highways) has been continuously using said tract of real estate since January 1, 1932, to and including the present time and is now using same, for the purpose of storage of road building material, road building equipment and other material and equipment used by said State Highway Commission (now Department of Highways); and

WHEREAS, during all of said time said State Highway Commission (now Department of Highways), nor any other person, has paid the said W. H. Housman for the use of said premises; and

WHEREAS, a question has arisen as to the authority of the present Department of Highways to pay for the use of said premises, Now Therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That W. H. Housman be and he is hereby author-

ized, permitted and empowered to sue the Commonwealth of Kentucky and the State Highway Commission (now Department of Highways), either or both of them, in any sum not in excess of Five Hundred (\$500.00) Dollars per year, as the reasonable rental value of his real estate used and occupied by the State Highway Commission (now Department of Highways) from January 1, 1932, to and including the date said suit is filed, or the date said premises shall cease to be used by the State Highway Commission (now Department of Highways) whichever is the sooner.

§ 2. That the action hereby authorized and permitted may be brought in the Graves Circuit Court, the situs of the property, and shall be commenced within one year from the passage hereof.

§ 3. That any party to said action may appeal from any judgment which may be rendered by the Graves Circuit Court to the Court of Appeals of Kentucky, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil action.

To Committee on Kentucky Statutes No. 1.

By Senator Ray B. Moss.

S. Res. 27. Resolution authorizing the personal representative of Dr. Thomas Ralston, deceased, to file suit against the Commonwealth of Kentucky or the Highway Department of Kentucky, one or both, to recover damages for wrongful injury or death.

Said resolution is as follows, viz.:

WHEREAS, on the 20th day of August, 1937, Dr. Thomas Ralston received injuries to his person through the negligent operation of a truck employed by the State Highway Com-



mission, for which injury, Dr. Thomas Ralston immediately thereafter died.

Now, therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the personal representative of the said Dr. Thomas Ralston be and he is now empowered and authorized to institute and prosecute a civil action for damages for said wrongful injury and death of Dr. Thomas Ralston in the McCreary Circuit Court against the Commonwealth of Kentucky and its said highway department, State Highway Commission of Kentucky, by whatever name known, or either of them, within one year from this date.

To Committee on Kentucky Statutes No. 1.

By Senator Blake.

S. Res. 28. A Joint Resolution of the General Assembly of the Commonwealth of Kentucky session 1938, memorializing the President of the United States, the Congress of the United States, and the Secretary of Agriculture of the United States to take such action as may be necessary to relieve the distress of the tobacco farmers of Kentucky and adjoining States caused by the recent sharp decline in the price of tobacco by causing a careful examination and investigation to be made of the tobacco companies as to why said companies suddenly reduced the prices paid for tobacco, by introducing and enacting legislation similar to the Agricultural Adjustment Act so as to control and govern the production of tobacco in the tobacco belt and to take any further action deemed advisable to restore a reasonable market price for tobacco.

Said resolution is as follows, viz.:

WHEREAS, when the tobacco markets of this State

opened around December 1, 1937, and prices paid to the tobacco growers of this State by the tobacco companies bidding for same on the markets were fair and reasonable and were such as to enable the tobacco growers in this and adjoining states to receive a fair return on their investment and labor, and

WHEREAS, when said markets were reopened after the Christmas holidays the prices for tobacco bid by said tobacco companies showed a market decline in comparison to prices theretofore bid for the 1937 crop, and

WHEREAS, the Agricultural Adjustment Act passed by the National Congress and approved by the President of the United States and in operation until declared unconstitutional by the Supreme Court of the United States by a divided vote, was of such benefit and advantage to the tobacco farmers of Kentucky and adjoining States that they were able to and did control the production of tobacco, conserve their soil and to receive a fair and reasonable price for their tobaccoes:

*Now, therefore, be it resolved by the General Assembly of the Commonwealth of Kentucky, session 1938.*

That the President of the United States, the Congress of the United States, and the Secretary of Agriculture of the United States be memorialized to take such action as may be necessary to promptly ascertain the cause of the recent decline in the price of tobacco sold on the tobacco markets of Kentucky and to further cause to be introduced in the National House of Congress, legislation similar to the Agricultural Adjustment Act, and

BE IT FURTHER RESOLVED THAT one copy each of this Resolution be forwarded by the Clerk of the Senate, to the President of the United States, to the President of the Senate and Speaker of the House of Representatives of the United States, to the Secretary of Agriculture of the United States, and to the Senators and Representatives of Kentucky in the United States Congress.

To Committee on Executive Affairs and Federal Relations.

### REPORTS OF COMMITTEES.

Senator Gibson of the Committee on Banks and Trust Companies, to which same had been previously referred, reported bills of the following titles, viz.:

S. B. 57. An Act to authorize fiduciaries to invest trust funds in real estate; to authorize a trust company or a bank, empowered to act as a fiduciary under the laws of the State of Kentucky, to establish a common trust fund under a written plan to be approved by the Kentucky State banking authority; to authorize the amendment or modification of any such plan with the approval of the Kentucky State banking authority; and to authorize such trust company or bank to invest trust funds in its hands in shares or participation certificates issued against such common trust fund.

S. B. 58. An Act to permit the transfer of assets of a bank to another bank, in case of emergency, by the board of directors with the consent of the Director of the Division of Banking, providing for the publication of notice of such transfer; providing for the payment of fair cash value to aggrieved shareholder, and the time and manner of objection of such aggrieved shareholder; and providing for the repeal of all laws and parts of laws in conflict with this Act.

S. B. 60. An Act relating to the compensation of trustees and fiduciaries, by adding after Section 4711, Kentucky Statutes, Carroll's Edition 1930, as amended, a new provision relating to such compensation.

With the expression of opinion that each of the aforesaid bills should pass.

Whereupon, each of said bills was read at length for the first time and

Ordered placed in the Calendar.

Senator Whitfield of the Committee on Agriculture and State Fair, to which same had been previously referred, reported a bill entitled, viz.:

S. B. 46. An Act creating the Kentucky State Fair Board; providing for its membership, their compensation and expenses, and prescribing its powers and duties; providing for liens on property of exhibitors and concessionaires to secure indebtedness due from them to said Board, and for the enforcement of such liens.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

### ORDERS OF THE DAY

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

H. B. 28. An Act relating to the qualification of non-elective peace officers, removal of persons disqualified, providing penalties for violation of this Act and repealing inconsistent Acts.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. No person shall be eligible for appointment, or if already appointed to continue to serve as a deputy sheriff, deputy constable, patrol or other non-elective peace officer or deputy peace officer—

- (a) Who is not a citizen of the United States;
- (b) Who is not twenty-one years of age or over;
- (c) Who has not resided in the county wherein he is appointed to serve for a period of at least two years;
- (d) Who has ever been convicted of or who is under indictment for a crime involving moral turpitude under the laws of this Commonwealth, or of any other state or of the United States;

(e) Who has within a period of two years hired himself out or performed any service as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or received any fee or compensation whatever from any private source for acting as a detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute.

§ 2. No person shall be permitted to qualify, and no person already serving shall continue to serve as a deputy sheriff, deputy constable, patrol or other non-elective peace officer or deputy peace officer unless and until such person shall file his photograph with the clerk of the county court of the county wherein he is appointed to serve together with an affidavit of such person setting forth the following:

- (a) His full name, age and residence address;
- (b) That he is a citizen of the United States and twenty-one years of age or over;
- (c) That he has resided in the county for a period of at least two years immediately preceding the filing of such affidavit;
- (d) That he has never been convicted of and is not under indictment for a crime involving moral turpitude under the laws of this Commonwealth, or of any other state or of the United States;



(e) That he has not for a period of two years immediately preceding the filing of such affidavit hired himself out or performed any service as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or received any fee or compensation whatever from any private source for acting as a detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen or private guards, or advertised or solicited any such business in connection with any labor dispute.

§ 3. Any false statement contained in any such affidavit as is required by the provisions of Section 2 of this Act shall constitute perjury and shall be punished as such.

§ 4. The photograph of any such person so filed with the clerk of the county court shall constitute a public record.

§ 5. Any person who shall exercise any of the functions of a non-elective peace officer or deputy peace officer in violation of the provisions of this Act shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$100.00 nor more than \$500.00, or imprisoned in the county jail for a term not exceeding six months, or both, in the discretion of the court.

§ 6. Any person serving as a non-elective peace officer or deputy peace officer in violation of the provisions of this Act shall be subject to removal. The circuit court of the county wherein such person is serving and the circuit court of Franklin County shall have concurrent jurisdiction to hear and determine all proceedings for the removal of any such person, which proceedings shall be in equity, and the procedure shall be as follows: The Commonwealth's attorney of the judicial district or the county attorney of the county in which such person shall be serving, the attorney general of the state, or any three or more citizens of said county wherein such person shall be serving may file a petition in equity

setting up the facts constituting a violation of the provisions of this Act. A copy of such petition shall be served upon the person complained against, who shall have ten days in which to answer the allegations thereof, if he shall desire to do so. Thereafter such proceedings shall be heard and determined by the court, either in term or in vacation according to the ordinary rules governing proceedings in equity; provided, that in every case the court or the judge thereof in vacation shall render a final judgment therein within sixty days from the date of the filing of the petition; provided further, that the court or judge hearing the case may for good cause shown extend the time for the final hearing thereof, but in no case beyond ninety days from the date of the filing of the petition. Such proceedings if instituted by the Commonwealth's attorney, county attorney or attorney general of the state shall be in the name of the Commonwealth, and if instituted by three or more citizens of the county, as herein provided, shall be in the name of such citizens as plaintiffs. Whenever it shall appear upon final hearing upon any such petition that any such person serving as a non-elective peace officer or deputy peace officer is disqualified under the provisions of this Act, the court upon ascertaining such fact shall enter an order or judgment forthwith removing such person from office as such non-elective peace officer or deputy peace officer.

§ 7. All acts and parts of acts inconsistent herewith are hereby repealed; provided nothing in this Act shall be construed to repeal sections 3766a-6 to 3766a-13, inclusive, of Carroll's Kentucky Statutes, 1936 edition, or any application thereof.

Senator Gilbert moved the Previous Question.

Whereupon, the President of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the third reading at length of said bill be dispensed with and the same be read for the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill, in accordance with the provision of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Aubrey Barbour	John M. Hall	Ira W. See
Paul M. Basham	J. Joseph Hettinger	Paul L. Sidebottom
H. Stanley Blake	H. Watt Hillman	John A. Sugg, Jr.
Ollie J. Bowen	Leo King	Ervine Turner
Leer Buckley	J. W. McDonald	Thomas O. Turner
Dr. D. H. Bush	Stanley B. Mayer	E. T. Wesley
Waller A. Crockett	Strother Melton	Otis White
Edwin C. Dawson	E. C. Moore	O. C. Whitfield
Lee Gibson	J. Lee Moore	B. M. Williams
Ralph Gilbert	Ray B. Moss	J. E. Wise

—30

There voted in the negative—

J. M. Wolfnbarger

—1

Resolved that the title thereof be as aforesaid.

Senator Gilbert moved that the vote by which said bill

was passed be reconsidered and said last named motion lie on the table.

Said motion was agreed to.

Senator Bowen moved that the rules be suspended and leaves of absence be granted to all absent Senators.

Said motion was agreed to by a majority of members elected.

The Senate took up for consideration from the Orders of the Day a bill of the following title, viz.:

S. B. 94. An Act authorizing the Governor and the administrative departments and independent agencies of the Commonwealth of Kentucky to apply for, receive and expend any Federal funds so received; providing that any and all Federal funds received or which hereafter may be received shall not be embraced within the limitations of any biennial appropriation act, and further prescribing the powers and duties of the Governor and other administrative departments and independent agencies in relation thereto.

Said bill reads as follows, viz.:

Whereas, the Commonwealth of Kentucky, acting by and through the Governor and other administrative departments and independent agencies has heretofore applied to the proper Federal agencies for grants of Federal funds for uses and purposes authorized by the laws of the United States and the laws of the Commonwealth of Kentucky; and,

Whereas, it is the desire of the General Assembly of the Commonwealth of Kentucky that the Governor and the administrative departments and independent agencies of the Commonwealth of Kentucky be fully authorized and empowered to procure for the Commonwealth of Kentucky full bene-

fit of the provisions of the Federal laws now enacted and which may hereafter be enacted appropriating Federal funds or authorizing the grant or use of Federal funds for the construction, improvement, maintenance and repair of public property and for other public purposes beneficial to the Commonwealth of Kentucky; and,

Whereas, the Department of Welfare and the Governor of the Commonwealth of Kentucky have heretofore applied for Federal funds to be used and expended in connection with the acquisition of real estate and the construction of a new State Reformatory and eleemosynary institutions in the Commonwealth of Kentucky; and,

Whereas, an authorized department or agency of the United States Government has approved one or more of said applications, conditioned in part upon express authority, ratification and approval of the General Assembly of Kentucky for the receipt and expenditure of Federal funds as an appropriation in addition to and supplementing the appropriations contained in the biennial appropriation act enacted by the General Assembly of Kentucky in 1936;

*Now, therefore, be it enacted by the General Assembly of the Commonwealth of Kentucky, that:*

§ 1. The Governor and the administrative departments and independent agencies of the Commonwealth of Kentucky hereby are authorized and empowered to apply for, receive, accept and expend any Federal funds that may have been procured or that may hereafter be procured from the United States of America, or any department or agency thereof. All such Federal funds heretofore procured and all such funds hereafter procured shall be expended for the purposes for which obtained, and the expenditure thereof hereby is authorized and said funds hereby appropriated for such uses and purposes, in addition to such State funds as have heretofore or may hereafter be appropriated by the General Assembly of the Commonwealth of Kentucky to any administrative



department or independent agency. Any limitation of amount contained in the biennial appropriation act of 1936, or the biennial appropriation act of 1938, and any subsequent biennial appropriation act, shall not be construed as including such Federal funds heretofore or hereafter procured.

§ 2. The Governor and each administrative department and independent agency with the approval of the Governor, hereby are authorized and empowered to enter into contracts and agreements with the United States Government or any department or agency thereof, and to do all other things necessary to fully carry out the powers and duties aforesaid as may be required by any official, Act of Congress or by rules, regulations or rulings of the President of the United States or of any department or agency of the United States relating to the grant or expenditure of Federal funds in the Commonwealth of Kentucky for any of the uses or purposes aforesaid.

§ 3. The Department of Welfare hereby is authorized to accept from the United States of America or from any of its departments or agencies, money under any grant or agreement heretofore or hereafter entered into by the Commonwealth of Kentucky or the Department of Welfare, and to expend the funds so granted or which may be so granted, in addition to any and all other funds heretofore or hereafter appropriated to the Department of Welfare by the General Assembly of Kentucky. The Department of Welfare hereby is authorized to expend any Federal funds heretofore received or which may hereafter be received, for the purchase of land, for the erection of buildings for the use of the Department of Welfare, for the confinement of convicts or for the construction of hospitals for the insane, feeble-minded or epileptic wards of the State, or any other authorized purposes for which said funds may have been granted or may hereafter be granted.

§ 4. Notwithstanding any other provisions of the laws of the Commonwealth of Kentucky, any unexpected balance of Federal funds or funds received from the United States

of America, or any department or agency thereof, in any fiscal year, shall be carried forward and credited to the department or agency for whose credit or for whose benefit such funds were received, and shall be available for expenditure during the next or any succeeding fiscal year. The Legislative intent of the General Assembly of the Commonwealth of Kentucky hereby is declared to be that any appropriation herein made of such Federal funds shall constitute a continuing appropriation, and that any restrictions now imposed by law relating to fiscal years shall not apply to any such funds received or which may be received from the United States of America or any department or agency thereof.

§ 5. Whereas, the Commonwealth of Kentucky, acting by and through the Department of Welfare is now engaged and is about to further engage in the construction of buildings and improvements to be used for the confinement of convicts and for the hospitalization and housing of the insane, feeble-minded and epileptic wards of the State; and, whereas, it is deemed by the General Assembly that it is necessary and advisable that the powers and duties prescribed in this Act be made effective immediately in order that the Commonwealth of Kentucky may receive full benefits of Federal funds and grants; an emergency hereby is declared to exist and this Act shall be effective immediately upon its passage and approval by the Governor.

§ 6. All laws or parts of laws in conflict herewith, to the extent of such conflict hereby are repealed.

Senator Gilbert moved the Previous Question.

Whereupon, the President of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the third reading at length of said bill be dispensed with and same be read for the third time by its title only.

Said motion was agreed to by a majority of members elected.

Whereupon the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read for the third time by its title only and passed.

The yeas and nays being taken thereon, in accordance with the provision of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	J. Joseph Hettinger	Jos. P. Tackett
Aubrey Barbour	H. Watt Hillman	Ervine Turner
Paul M. Basham	Leo King	Thomas O. Turner
H. Stanley Blake	J. W. McDonald	E. T. Wesley
Ollie J. Bowen	Stanley B. Mayer	Otis White
Dr. D. H. Bush	Strother Melton	O. C. Whitfield
Edwin C. Dawson	E. C. Moore	B. M. Williams
Lee Gibson	J. Lee Moore	J. E. Wise
Ralph Gilbert	Paul L. Sidebottom	
John M. Hall	John A. Sugg, Jr.	—28

There voted in the negative—

Leer Buckley	—1
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Resolved that the title thereof be as aforesaid.

Senator Gilbert moved that the vote by which said bill was passed be reconsidered and said last named motion lie on the table.

Said motion was agreed to.

The Senate then took up for consideration from the Orders of the Day a resolution entitled, viz.:

H. Res. 4. A resolution providing for the purchase of "The Legislative Digest" adopted at the regular session of the Legislature of 1912 and each succeeding session since that date as the official publication for the General Assembly, providing for the distribution thereof and for payment therefor.

Said resolution reads as follows, viz.:

WHEREAS, it is a matter of importance and convenience that each Representative and each Senator be advised as to the various and detailed steps of legislation; and,

WHEREAS, the General Assembly for each of the past sessions since 1912 has approved and adopted as its official publication "The Legislative Digest", published under the management of competent and experienced persons, the purpose of which is to fully advise from day to day the officials and public of the Commonwealth as to matters affecting them in an intelligent and prompt manner; now, therefore,

*Be it Resolved by the House of Representatives of the Commonwealth of Kentucky, and the Senate of the Commonwealth of Kentucky concurring, that:*

ONE. The State Journal Company hereby is authorized, requested and directed to furnish two hundred (200) copies of "The Legislative Digest" daily for delivery and distribution as hereinafter provided. The State Journal Company will be paid the sum of Two Thousand (\$2,000.00) Dollars for furnishing two hundred copies of "The Legislative Digest" daily as provided in this Resolution, which amount hereby is fixed, determined, approved and allowed as a contingent expense of the 1938 Regular Session of the General Assembly of Kentucky. Said amount will be paid on or before March 15th, 1938, out of the appropriation heretofore made for the cost, salaries and expenses of the General Assembly. The

State Journal Company will present to the Speaker of the House and to the President of the Senate its bill for \$2,000.00, and the Speaker of the House and the President of the Senate hereby are authorized and directed to approve said bill for payment out of the appropriation hereinabove referred to; and when said bill is so approved, it shall be approved for payment by the Department of Finance; and, the Auditor of Public Accounts shall issue his warrant upon the State Treasurer in payment thereof, and the State Treasurer shall issue and deliver a check upon the State Treasury for the payment thereof.

TWO. The State Journal Company hereby is directed to furnish and deliver daily to the Clerk of the House one hundred and ten (110) copies of "The Legislative Digest" for distribution to the Members of the House and to such officers of the House as the Speaker may direct; to furnish and deliver daily to the Clerk of the Senate forty-five (45) copies of "The Legislative Digest" for distribution to the Members of the Senate and to such officers of the Senate as the President of the Senate may direct; and, to furnish and deliver daily the remaining forty-five (45) copies of "The Legislative Digest" to the Governor of the Commonwealth of Kentucky and to such Departments, officers and employees of the Commonwealth as the Governor of the Commonwealth, the President of the Senate and the Speaker of the House may direct. The Speaker of the House, the President of the Senate and the Governor of the Commonwealth hereby are requested to furnish to the State Journal Company a list of the Departments, officers and employees to whom said copies are to be furnished as hereinabove provided.

The word "daily" as hereinabove used shall be construed to mean each day that the House or Senate is in session.

THREE. "The Legislative Digest" hereby is adopted and approved as the official publication of the General Assembly of Kentucky.



FOUR. The Clerk of the House of Representatives, on the passage of this Resolution and the concurrence therein by the Senate, hereby is directed to furnish and deliver to the Department of Finance and to the Auditor of Public Accounts an attested or certified copy of this Resolution; and the amount hereinabove provided to be paid shall be noted and entered on the books of the Department of Finance and the books of the Auditor of Public Accounts as a charge against the appropriation hereinabove referred to.

Senator Gilbert moved the Previous Question.

Whereupon, the President of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be read the third time.

Senator Gilbert moved that the third reading at length of said resolution be dispensed with and the same be read for the third time by its title only.

Said motion was agreed to by a majority of members elected.

Whereupon, the Constitutional provision as to the third reading at length of said resolution being dispensed with, said resolution was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said resolution, in accordance with the provision of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	John M. Hall	John A. Sugg, Jr.
Aubrey Barbour	J. Joseph Hettinger	Jos. P. Tackett
Paul M. Basham	H. Watt Hillman	Ervine Turner
H. Stanley Blake	Leo King	Thomas O. Turner
Ollie J. Bowen	J. W. McDonald	E. T. Wesley
Leer Buckley	Stanley B. Mayer	Otis White
Dr. D. H. Bush	Strother Melton	O. C. Whitfield
Waller A. Crockett	E. C. Moore	B. M. Williams
Edwin C. Dawson	J. Lee Moore	J. E. Wise
W. C. Farmer	Ray B. Moss	J. M. Wolfenbarger
Lee Gibson	Ira W. See	
Ralph Gilbert	Paul L. Sidebottom	

—34

Resolved that the title thereof be as aforesaid.

Senator Gilbert moved that the vote by which said resolution was passed be reconsidered and said last named motion lie on the table.

Said motion was agreed to.

Thereupon, the Senate took up for consideration from the Orders of the Day a resolution of the following title, viz.:

H. Res. 1. Resolution appropriating the sum of \$750.00 for a contingent fund for the clerk of the Senate, and appropriating the sum of \$750.00 for a contingent fund for the Clerk of the House.

Said resolution reads as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That for the purpose of paying such expenses as the Chief Clerk of the Senate of Kentucky is directed to incur by the

Senate of Kentucky, there is hereby appropriated out of the general revenues of the State, as a contingent fund, the sum of seven hundred and fifty (\$750.00) dollars, and for the purpose of paying the expenses incurred by the Chief Clerk of the House of Representatives, under the direction of the House of Representatives of the Commonwealth of Kentucky, there is hereby appropriated out of the general revenues of the State, as a contingent fund, the sum of seven hundred and fifty (\$750.00) dollars. Said respective funds shall be paid out on warrant of the Auditor, issued on requisition of the Chief Clerk of the Senate and of the House of Representatives.

Senator Gilbert moved the Previous Question.

Whereupon, the President of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said resolution be read the third time.

Senator Gilbert moved that the third reading at length of said resolution be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said resolution being dispensed with, said resolution was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said

resolution in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	John M. Hall	Paul L. Sidebottom
Aubrey Barbour	J. Joseph Hettinger	John A. Sugg, Jr.
Paul M. Basham	H. Watt Hillman	Jos. P. Tackett
H. Stanley Blake	Leo King	Ervine Turner
Leer Buckley	J. W. McDonald	Thomas O. Turner
Dr. D. H. Bush	Stanley B. Mayer	E. T. Wesley
Waller A. Crockett	Strother Melton	Otis White
Edwin C. Dawson	E. C. Moore	O. C. Whitfield
W. C. Farmer	J. Lee Moore	B. M. Williams
Lee Gibson	Ray B. Moss	J. E. Wise
Ralph Gilbert	Ira W. See	J. M. Wolfenbarger

—33

Resolved that the title thereof be as aforesaid.

Senator Gilbert moved that the vote by which said resolution was passed be reconsidered and said last named motion lie on the table.

Said motion was agreed to.

Senate Gilbert moved that the Senate do now recess for twenty minutes.

Said motion was agreed to.

And then the Senate recessed.

The appointed hour having arrived, the President of the Senate resumed the Chair and called the Senate to order.

Senator Gilbert moved that the rules be suspended for the purpose of allowing committees to report.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Gilbert of the Committee on Revenue and Taxation, to which same had been previously referred, reported a bill of the following title, viz.:

S. B. 64. An Act providing for monthly advancements to the County Sheriffs in counties containing a population of 75,000 or more; providing for the manner of paying said advancements and accounting for same; and declaring an emergency to exist.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator Gilbert moved that the rules be suspended and the Clerk of the Senate be directed to report to the House the action of the Senate on bills and resolutions of the following titles, viz.:

H. B. 28. (For title see S. J. of today, ante.)

S. B. 94. (For title see S. J. of today, ante.)

H. Res. 4. (For title see S. J. of today, ante.)

H. Res. 1. (For title see S. J. of today, ante.)

Said motion was agreed to by a majority of the members elected.



Senator Mayer moved that the Senate do now resolve itself into a Committee of the Whole Senate for the purpose of hearing an address by Blind Lew Palmer.

Said motion was agreed to.

Whereupon, the President of the Senate vacated the Chair which was occupied by Senator Dawson, President Pro Tem of the Senate, who presided as Chairman of the Committee of the Whole Senate.

After a time the President of the Senate resumed the Chair and Senator Dawson, President Pro Tem of the Senate and Chairman of the Committee of the Whole Senate, reported progress.

Senator Gilbert moved that the Senate do now adjourn to meet again at eleven o'clock, A. M., Tuesday, January 25th, 1938.

Said motion was agreed to.

And then the Senate adjourned.

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## TUESDAY, JANUARY 25TH, 1938.

The Senate convened and was called to order by the Lieutenant Governor of the Commonwealth, the Honorable Keen Johnson, President of the Senate.

The Senate was opened with prayer by the Reverend E. W. Baxter, rector of the Church of the Ascension, Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	John M. Hall	Ira W. See
Aubrey Barbour	J. Joseph Hettinger	Paul L. Sidebottom
Paul M. Basham	H. Watt Hillman	John A. Sugg, Jr.
H. Stanley Blake	Wm. H. Jones, Jr.	Jos. P. Tackett
Ollie J. Bowen	Leo King	Ervine Turner
Leer Buckley	J. W. McDonald	Thomas O. Turner
Dr. D. H. Bush	Stanley B. Mayer	E. T. Wesley
Waller A. Crockett	Strother Melton	Otis White
Edwin C. Dawson	E. C. Moore	O. C. Whitfield
W. C. Farmer	J. Lee Moore	B. M. Williams
Lee Gibson	Dr. R. C. Moss	J. E. Wise
Ralph Gilbert	Ray B. Moss	J. M. Wolfenbarger

Senator Dawson moved that the reading of the Journal of the proceedings of Monday, January 24th, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.

Senator Williams moved that the rules be suspended and the privilege of the floor be extended to Mr. Philmore McIntosh of Hazard, Kentucky.

Said motion was agreed to unanimously.

Senator Gibson moved that the rules be suspended and the privilege of the floor be extended to Mr. Douglas Bowling of Owensboro, Kentucky.

Said motion was unanimously agreed to.

The President of the Senate laid before the Senate a communication which was read by the Chief Clerk of the Senate as follows, viz.:

## RESOLUTIONS

The Board of Managers of the Kentucky Branch of the National Congress of Parents and Teachers, meeting in Louisville January 19th, 1938, passed the following resolution:

WHEREAS: A State Safety Commission was appointed by Governor A. B. Chandler, January 1937, to find ways and means to combat the increasing toll of fatalities and injuries suffered upon our streets and highways, and

WHEREAS: In 1937 the number of fatalities increased considerably over the number in 1936, even with a number of safety programs inaugurated throughout the State, and

WHEREAS: The Kentucky Congress of Parents and Teachers is vitally interested in promotion of Safety on our highways, and feel that every effort should be expended by our state officials to correct this condition and reduce these unfortunate tragedies:

THEREFORE BE IT RESOLVED, by the Kentucky Congress of Parents and Teachers, through the Board of Managers, in session in Louisville, recommend to our Governor and legislators to immediately take such steps as will strengthen the State Safety Commission in their work, and a recodification of our traffic laws be made to assist in the policing and maintenance of worth-while traffic regulations. That the present law relative to weights of trucks and sizes remain the same, and that the State Legislature go on record as opposing enactment of any law by Congress which would take over the rules and regulations of our highways, particularly those which permit the increasing of size and weights of trucks. We feel that such an act by Congress would abridge the authority of our state officials and greatly increase the dangers to our motorists and pedestrians as well as visitors within our State.

The President of the Senate, at the request of His Excellency, the Honorable A. B. Chandler, Governor of the Com-

monwealth, laid before the Senate the following communication which was read by the Chief Clerk of the Senate, viz.:

UNIVERSITY OF KENTUCKY  
LEXINGTON

January Twelve  
1938

Hon. Governor A. B. Chandler  
Capitol Building  
Frankfort, Kentucky

My dear Governor:

Knowledge has been brought to us that you, Lieutenant Governor Keen Johnson, and the members of the Legislature are planning to attend a basketball game at the University of Kentucky on the night of February 7, 1938.

We, as representatives of the Student Council, on behalf of the student body of the University of Kentucky, extend to you, the Lieutenant Governor, and the members of the Legislature an invitation to attend a banquet preceding the game. The exact time and place has not yet been designated, but we will notify you as to those particulars in the near future.

If you so desire we will come to Frankfort and extend a personal invitation to you, the Lieutenant Governor and the members of the Legislature. However, if you prefer, you may extend the invitation to the Lieutenant Governor and the legislators for us.

Further arrangements are pending your reply. We hope that you, the Lieutenant Governor, and the legislators will honor us with your presence on this occasion.

Sincerely yours,

STUDENT COUNCIL COMMITTEE

ROGER BROWN, President

J. NATHAN ELLIOT, JR.,

Secretary-Treasurer

BERKLEY BENNESON, JR.

The President of the Senate further laid before the Senate the following communication which was read by the Chief Clerk of the Senate, viz.:

Honorable Keen Johnson  
State Senate  
Frankfort, Kentucky

My dear Governor Johnson:

We expect to have the pleasure of hearing Mrs. Roosevelt speak at the University gymnasium on Wednesday evening, January 26, at 7:30. We should be very glad indeed to have the members of the Senate come to this meeting. Seats will be reserved for them. If you will extend this invitation to them, I shall be very much obliged.

I want you to be present and to sit on the platform with Mrs. Roosevelt and add dignity to the occasion.

With best wishes, I remain

Sincerely yours,

(Signed)

FRANK L. McVEY  
President of the University

Senator Ray B. Moss moved that each and all of the aforesaid communications as read by the Chief Clerk of the Senate be spread upon the Journal of the Senate.

Said motion was agreed to.

### INTRODUCTION OF BILLS

Bills and a resolution of the following titles were introduced, ordered printed and referred as follows, viz.:

By Senator White.

S. B. 120. An Act to amend and re-enact Section



2738r-1, Carroll's Kentucky Statutes, 1936 Revision. Providing for time of payment and medium of payment for all employees of all industries.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That sub-section 3738r-1 of Carroll's Kentucky Statutes edition of 1936 be and same is hereby amended and re-enacted so that when so amended and re-enacted the said section shall read as follows:

That all persons, associations, companies, and corporations employing the services of ten or more persons in any industry in this Commonwealth shall on the *first* and *sixteenth* of each month pay to each servant or employee in lawful money of the United States the full amount of wages due each servant or employee rendering such service unless prevented by an unavoidable casualty, provided however that if at any time of payment any servant or employee shall be absent from his place of labor he shall be entitled to such payment at any time thereafter on demand. *In event the first or sixteenth should fall on Sunday or a legal holiday the payments shall be made on the day previous.*

To Committee on Kentucky Statutes No. 1.

By Senator Tackett.

S. B. 121. An Act to amend and re-enact Section 2121 of the Kentucky Statutes, Carroll's 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That section 2121 of the Kentucky Statutes, Carroll's 1936 Edition, be and the same is hereby amended and

re-enacted so that same, when so amended and re-enacted, shall read as follows:

Section 2121. Judgment for separation or divorce from bed and board may also be rendered for any of the causes which allow divorce, or for such other cause as the court in its discretion may deem sufficient. Pending an action for any divorce the court may allow the wife maintenance. A divorce from bed and board shall operate as to property thereafter acquired, and upon the personal rights and legal capacities of the parties, as a divorce from the bond of matrimony, except that neither shall marry again during the life of the other, and except that it shall not bar curtesy, dower or distributive right. Such may be revised or set aside at any time by the court rendering it.

Whenever a judgment of separation from bed and board shall have been rendered and no reconciliation between the spouses shall have taken place within one year after the date of said judgment from bed and board, either spouse, at any time after the expiration of one year from the date of said judgment, may redocket the action in which the judgment from bed and board was entered or may institute a separate action in the Circuit Court of the county of the plaintiff's residence and ask for and obtain a final divorce a vinculo matrimonii from the other spouse. If the pleadings and proof in such proceeding or action shall show that a judgment of separation from bed and board was rendered at least one year prior to the application for a final divorce a vinculo matrimonii, and that no reconciliation between the spouses has taken place, the court shall render a judgment for absolute divorce to plaintiff, as a matter of right.

The one-year period between the rendition of the judgment of divorce from bed and board and the commencement of the proceeding or action for absolute divorce shall consist of time elapsing both before and after the passage and approval of this Act if the husband and wife are living apart

under a judgment of divorce from bed and board at the time this Act is passed and approved.

The wife in such a proceeding shall have the same rights of recovering alimony from the husband as are now provided by law.

Upon final judgment of divorce from the bonds of matrimony, the parties shall be restored such property not disposed of at the commencement of the action that either obtained from or through the other before or during the marriage in consideration thereof, and such final judgment shall restore them to the status of single persons and permit either to marry after the entry thereof.

§ 2. That all laws or parts of laws in conflict herewith are hereby repealed.

To Committee on Reapportionment.

By Senator Tackett.

S. B. 122. An Act to amend and re-enact the first sub-section 2 of Section 2117 of the Kentucky Statutes, Carroll's 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That the first sub-section two (2) of section 2117 of the Kentucky Statutes, Carroll's Edition, be and the same is hereby amended and re-enacted so that same, when so amended and re-enacted, shall read as follows:

Two (2). Living apart without any cohabitation for two consecutive years next before application. The two year period of living apart shall consist of time elapsing both before and after the passage and approval of this Act if the husband and wife are living apart without any cohabitation at the time this Act is passed and approved.

§ 2. That all laws or parts of laws in conflict herewith are hereby repealed.

To Committee on Reapportionment.

By Senator Hillman.

S. B. 123. An Act to amend and re-enact Section 4357-1, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, increasing the Governor's salary from Six Thousand Five Hundred Dollars to Ten Thousand Dollars.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 4357-1, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be, and the same is hereby amended and re-enacted to read as follows:

That after the expiration of the term of the present incumbent, the compensation in full of the Governor shall be Ten Thousand Dollars (\$10,000), per annum to be paid monthly out of the Treasury.

To Committee on Appropriations.

By Senator Gilbert.

S. Res. 29. A Senate Joint Resolution relating to the Public Documents of the State.

Said resolution is as follows, viz.:

*Be it Resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, The House concurring therein, that:*

WHEREAS, it appears that the original, signed manu-

script copies of the second, third, and present constitutions of the Commonwealth of Kentucky have disappeared from the office of the Secretary of State, and are not to be found in any other proper place or archives, and

WHEREAS the copy of the first constitution of Kentucky has but recently been returned from another State, and

WHEREAS it has even been intimated that there are differences in the verbage of the original signed manuscript copy of the present constitution and the printed versions, and

WHEREAS so valuable a document or documents never should have been removed from the State archives and concealed or kept in private hands for a long term of years, therefore, be it,

RESOLVED, by the Senate with the House concurring, that a committee of three, composed of one Senator named by the president of the Senate and two representatives appointed by the Speaker of the House, is herewith created and directed to immediately investigate these conditions and report back to this body its findings and recommendations for a means of locating the aforesaid documents, and for their restoration to the archives of the Commonwealth.

To Committee on Library and Historical Records.

### CALENDAR

The Senate took up for consideration from the Calendar bills of the following titles, viz.:

S. B. 57. An Act to authorize fiduciaries to invest trust funds in real estate; to authorize a trust company or a bank, empowered to act as a fiduciary under the laws of the State of Kentucky, to establish a common trust fund under a written plan to be approved by the Kentucky State banking authority; to authorize the amendment or modification of any such plan with the approval of the Kentucky State banking authority; and to authorize such trust company or bank to invest trust



funds in its hands in shares or participation certificates issued against such common trust fund.

S. B. 58. An Act to permit the transfer of assets of a bank to another bank, in case of emergency, by the board of directors with the consent of the Director of the Division of Banking, providing for the publication of notice of such transfer; providing for the payment of fair cash value to aggrieved shareholder, and the time and manner of objection of such aggrieved shareholder; and providing for the repeal of all laws and parts of laws in conflict with this Act.

S. B. 60. An Act relating to the compensation of trustees and fiduciaries, by adding after Section 4711 Kentucky Statutes, Carroll's Edition 1930, as amended, a new provision relating to such compensation.

S. B. 46. An Act creating the Kentucky State Fair Board; providing for its membership, their compensation and expenses, and prescribing its powers and duties; providing for liens on property of exhibitors and concessionaires to secure indebtedness due from them to said Board, and for the enforcement of such liens.

S. B. 64. An Act providing for monthly advancements to the County Sheriffs in counties containing a population of 75,000, or more; providing for the manner of paying said advancements and accounting for same; and declaring an emergency to exist.

Senator Dawson moved that the Constitutional provision as to the second reading at length of said bills be dispensed with and the same be read the second time by their titles only.

Said motion was agreed to by a majority of the members elected.

Whereupon, said bills were read for the second time by their titles only and

Ordered placed in the Orders of the Day.

Senator King moved that leaves of absence be granted to all absent members.

Said motion was agreed to.

Senator Gilbert moved that the Senate do now recess until 2:00 o'clock, p. m.

Said motion was agreed to.

And then the Senate recessed.

The appointed hour having arrived, the President of the Senate resumed the Chair and called the Senate to order.

Senator J. Lee Moore moved that the rules be suspended for the purpose of introduction of bills.

Said motion was agreed to by a majority of the members elected.

Whereupon, a bill and resolutions of the following titles were introduced, ordered printed and referred, as follows, viz.:

By Senator J. Lee Moore.

S. B. 124. An Act to amend Section 199a-11 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 199a-11 of Carroll's Kentucky Statutes, 1936 Edition, be amended by adding thereto the following words:

It shall be unlawful for any such policy, contract, bond, assurance or guarantee, or any such by-law, to provide that the payments of said benefits, or any part thereof, shall be made to any official undertaker, or to any designated undertaker or undertaking concern, or to any particular tradesman, or business man, so as to deprive the personal representative or family of the deceased from, or in any way, to control them in, procuring and purchasing supplies and services incident to the burial of the deceased, in the open market with the advantage of competition. This amendment shall not be applicable to any agreement, policy, contract, bond, assurance or guarantee in existence at the time of the effective date of this amendment, so that said section when so amended shall read as follows:

“It shall be unlawful for any association as herein defined, to issue or cause to be issued, any agreement, policy, contract, bond, assurance or guarantee, or have any by-laws which shall provide for the payment of any funeral benefit in merchandise or services, but all payments of benefits thereunder must be made in money.

It shall be unlawful for any such policy, contract, bond, assurance or guarantee, or any such by-law, to provide that the payments of said benefits, or any part thereof, shall be made to any official undertaker, or to any designated undertaker or undertaking concern, or to any particular tradesman, or business man, so as to deprive the personal representative or family of the deceased from, or in any way, to control them in, procuring and purchasing supplies and services incident

to the burial of the deceased, in the open market, with the advantage of competition.

This amendment shall not be applicable to any agreement, policy, contract, bond, assurance or guarantee in existence at the time of the effective date of this amendment."

To Committee on Insurance.

By Senator J. Lee Moore.

S. Res. 30. A resolution inviting General James A. Drain to speak before a joint meeting of the House and Senate of the General Assembly of Kentucky, sitting as a Committee of the Whole on January 27, 1938, at 2:30 P. M.

Said resolution is as follows, viz.:

WHEREAS, General James A. Drain past Commander of the American Legion, now representing the Social Security Board, will be in Lexington, Kentucky, on Wednesday, January 26, 1938, for the purpose of speaking before several public gatherings.

WHEREAS, General Drain is thoroughly conversant with the Social Security Act, and is also an outstanding citizen and legionnaire, therefore

*Be it Resolved:*

That the House of Representatives and Senate concurring herein invite General Drain to speak before the General Assembly sitting as a Committee of the Whole on January 27, 1938, at 2:30 P. M. in the House Chamber; that the Speaker of the House and the President of the Senate appoint three members from each body to notify General Drain and make such arrangements as are necessary to accomplish the purpose for which this resolution is adopted.

To Committee on Veterans' Legislation.

By Senator Gilbert.

S. Res. 31. Resolution authorizing A. L. Schooler to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, on February 22, 1937, A. L. Schooler, while riding on a State maintained Highway in Shelby County, Kentucky, received injuries by reason of the negligence of the driver of a truck being operated by employees of the State in the State's business, causing injuries to the head and body of the said A. L. Schooler and destroying his truck, therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the said A. L. Schooler be, and he is hereby authorized and permitted to sue the Commonwealth of Kentucky in the Shelby Circuit Court for such damages as he may have suffered to his personal property by reason of such negligence of the employees of the State, if any, under the same measure of recovery as in other civil actions. In the event any judgment is recovered by the said Schooler in said suit, same shall be paid by the Treasurer of the Commonwealth on Warrant from the Auditor.

The Attorney General of the Commonwealth of Kentucky is authorized and empowered, in the event he thinks the Commonwealth properly liable therefor, to compromise and adjust the said suit, in which event the said amount shall be paid as above provided.

To Committee on Kentucky Statutes No. 1.

By Senator Ervine Turner.

6 S. Res. 32. A Resolution authorizing and directing pay-



ment out of the State Road Fund of a claim of the Codell Construction Company, a corporation; and ratifying and approving said claim and the written supplemental contracts and the acts on which said claim is based; and declaring an emergency.

Said resolution is as follows, viz.:

WHEREAS, in the fall of 1934 the State Highway Commission of Kentucky, pursuant to and in compliance with the provisions of the Statutes, advertised for bids for the construction of approximately 6.428 miles of grade and drain type of construction of a certain highway embraced in the State Primary System of Highways in Pike County, known and designated as Pike County S. P. No. 6½-B G; and,

WHEREAS, the Codell Construction Company, a corporation, submitted its bid pursuant to the advertisement by the State Highway Commission aforesaid; and,

WHEREAS, on or about October 23, 1934 said State Highway Commission, by proper order entered on the records of said Commission, determined that the Codell Construction Company's bid was the lowest and best bid, accepted said bid and entered into a written contract and bond with the Codell Construction Company in conformity therewith, which contract and bond were dated November 13, 1934; and,

WHEREAS, before the completion of the work which the Codell Construction Company agreed to perform under the terms of the original contract and bond aforesaid, said State Highway Commission requested the Codell Construction Company to agree to perform extra or additional work at the same unit prices provided for in the original contract, and to enter into supplemental agreements therefor, and the Codell Construction Company did so agree and enter into two supplemental agreements in writing with said State Highway Commission, each dated November 1, 1935. By the terms of said supplemental contracts said Codell Construction Company agreed to do the extra or additional work therein pro-

vided, and to furnish the extra materials therein required for grading, draining and constructing the extension of the same road and project provided for in the original contract for a distance of approximately 2.586 miles, which said supplemental contracts were duly and regularly signed by the Chairman of the State Highway Commission and the Codell Construction Company, respectively; and,

WHEREAS, the Codell Construction Company fully performed each and all of the terms, covenants and conditions of said supplemental contracts on its part to be performed; and,

WHEREAS, under the terms of said supplemental contracts the Commonwealth of Kentucky and the State Highway Commission agreed to pay the Codell Construction Company the sum of Forty Thousand Nine Hundred Sixty-seven and 99/100 (\$40,967.99) Dollars, all of which has been due and payable since the 24th day of July, 1936 and no part of which has been paid; and,

WHEREAS, the Codell Construction Company filed a suit under the Declaratory Judgment Act in the Franklin Circuit Court to have determined the validity of said supplemental contracts and to require payment to be made of the amount due according to the terms of said contracts, with the the interest thereon from the date said amount became due; and,

WHEREAS, upon final hearing of the case in the Franklin Circuit Court, after all pleadings were filed and the evidence heard and considered, a judgment was entered in the Franklin Circuit Court wherein the Court found (a) that "it is clearly established from the evidence that the unit prices specified in the original and supplemental contracts were reasonable and fair to the Commonwealth of Kentucky, that the plaintiff entered into such supplemental contracts in good faith, and fully and satisfactorily performed the work stipulated to be done by plaintiff in such supplemental contracts in full and strict compliance with the terms thereof and with

the terms and provisions of the specifications relating thereto. The evidence further establishes that the two supplemental contracts were entered into in good faith and without fraud or collusion and that it has been the practice of the Highway Department for more than fifteen years, and in fact since it was established, to make such supplemental agreements, and that in a large number of other instances such agreements had been made and the contractors paid therefor"; and (b) that "it is further shown by the pleadings and proof in this case that the facts and circumstances were such that there was no abuse of discretion on the part of the State Highway Commission in awarding said supplemental contracts, in so far as it appears from the evidence the prices were reasonable and probably cheaper for the State than could have been acquired had the work that was done under the supplemental agreements been advertised for bids and bids received thereon"; and (c) that "in view of the particular facts and circumstances shown by the pleadings and proof in this case, the Court is of the opinion that the plaintiff is entitled to be paid the amount claimed in its petition"; and,

WHEREAS, the judgment of the Franklin Circuit Court has been appealed to the Court of Appeals upon the sole ground that the State Highway Commission did not have the legal authority to enter into such supplemental agreements without first having advertised for and received bids for the extra or additional work provided to be done under the terms of said supplemental agreements; and,

WHEREAS, if it should be adjudged that said supplemental agreements were invalid upon said ground, such agreements could be validated only by appropriate action of the General Assembly of the Commonwealth of Kentucky; and,

WHEREAS, the Codell Construction Company's claim is just and the Commonwealth of Kentucky has received full value therefor;

*Now, therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky, that:*

§ 1. All and singular the acts by the State Highway Commission of Kentucky and the Chairman of said Commission in executing the two supplemental agreements dated November 1, 1935, and said supplemental agreements, hereby are ratified, confirmed, validated and approved; and the claim of the Codell Construction Company for payment out of the State Road Fund of the sum of \$40,967.99, with interest thereon at the rate of six (6%) per cent. per annum from July 24, 1936 until paid, hereby is ratified, confirmed and approved, and the payment thereof authorized and directed to be made in the same manner as other valid obligations or debts of the Department of Highways are paid.

§ 2. The Commissioner of Highways hereby is authorized and directed to make or cause to be made a proper certification in favor of the Codell Construction Company in the amount of \$40,967.99, plus accrued interest thereon at the rate of six (6%) per cent. per annum from July 24, 1936 until paid, and is further authorized and directed to sign and approve said certification and cause the same to be delivered to the Department of Finance.

The Commissioner of Finance and the Department of Finance hereby are authorized and directed to approve said certification and deliver or cause it to be delivered to the Auditor of Public Accounts with the proper indorsement of approval entered thereon.

The Auditor of Public Accounts hereby is authorized and directed when said certification is presented to him, issued and approved as hereinabove directed to issue his warrant in favor of the Codell Construction Company on the State Treasurer for the amount of said certification.

The State Treasurer hereby is authorized and directed to receive said warrant when delivered to him, and to issue his check payable to the order of the Codell Construction

Company, drawn on a State Depository, for the amount of said warrant

§ 3. Whereas, the principal business of the Codell Construction Company is the construction and improvement of public highways of this State; and, whereas, the Commonwealth of Kentucky has had the benefits of the materials furnished, costs incurred, and the labor performed by the Codell Construction Company on the aforesaid contracts for approximately one year; and, whereas, the Codell Construction Company is entitled to prompt payment of said claim; an emergency hereby is declared to exist and this Resolution shall be effective immediately upon its passage and approval by the Governor.

To Committee on Roads and Highways.

By Senator Williams.

S. Res. 33. A Resolution authorizing Hiram Brock to file suit against the Commonwealth of Kentucky or the State Highway Commission of Kentucky or either or both of them.

Said resolution is as follows, viz.:

WHEREAS, in the year 1932 and 1933 the State Highway Commission, its agents and servants negligently and improperly constructed a state highway, part of the primary road system of Harlan County leading up Catron's Creek to Yancey and Ligett; and

WHEREAS, the State Highway Commission, its agents and employees, so constructed said highway, so that the said Commission, its agents and employees, filled up the natural course of Catron's Creek and stopped the natural flow of the water and turned the same over and through the property of the said Hiram Brock, and

WHEREAS, the said creek washed away and destroyed



and impaired the value of said property so as to greatly injure and damage the said Hiram Brock and his property, and

WHEREAS, the salable value thereof has been greatly decreased:

*Therefore be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the said Hiram Brock be and he is hereby authorized and permitted to bring suit in the Harlan Circuit Court for such damage as he may have suffered, not to exceed the sum of \$5000.00, if any by reason of the negligent construction of said highway and the wrongful filling up of the part of the said creek and obstructing the natural flow of the water therein, by the said then State Highway Commission, its agents and employees, and in the event any judgment is recovered by the said Hiram Brock in said suit, the same shall be paid by the Treasurer of the Commonwealth of Kentucky out of the General Fund on warrant from the Auditor.

The said Hiram Brock and the said Commission and the Commonwealth of Kentucky shall have the right to appeal, and said case shall be tried in the manner and from provided by the Statutes and Codes of the Commonwealth of Kentucky.

To Committee on Kentucky Statutes No. 1.

By Senator Williams.

S. Res. 34. A resolution authorizing Sanford England to file suit against Harlan County, State of Kentucky, or the Commonwealth of Kentucky, or either or both of them.

Said resolution is as follows, viz.:

WHEREAS, On October 16, 1937, one, Sanford England, was seriously and permanently injured while walking across the public bridge across the Cumberland River at Molus, Harlan County, Kentucky, by a loose board or boards which gave way when he stepped on same; and,

WHEREAS, said bridge forms a part of the public highway of Harlan County, Commonwealth of Kentucky; and same is maintained and kept in repair by the said Harlan County, Commonwealth of Kentucky, and its employees:

NOW, in order to determine, by action of the judiciary, the question of negligence causing said injuries as aforesaid,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Sanford England, in his own right and name, be and he is hereby permitted and authorized to file and prosecute appropriate action or actions against Harlan County, Kentucky, or the Commonwealth of Kentucky, or either or both of them, for the purpose of determining the liability of Harlan County, Kentucky, or the Commonwealth of Kentucky, or either or both of them, for such injuries, if any there be.

Such action or actions may be brought at any time within two years from the time this resolution is passed, and in any circuit court of the Commonwealth of Kentucky which under the laws of Kentucky may have jurisdiction of such matters, or may be joined with any action or actions pending wherein circuit courts have competent jurisdiction of the subject matter and parties.

Said suit for Sanford England for personal injuries by him shall be for any amount not exceeding the sum of \$5,000 and in the event any judgment is recovered by said Sanford England for personal injuries received by him or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the General Fund, or by the Treasurer of Harlan County by warrants drawn on the General Fund of said county and paid out of said funds.

Either party to said suit or suits may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and adjusted by and with the consent and approval of the Attorney-General of Ken-

tucky or with the consent and approval of the County Attorney of Harlan County in the same way and manner as any other civil case may be settled or adjusted.

To Committee on Kentucky Statutes No. 1.

By Senator Williams.

S. Res. 35. A Resolution authorizing Dora Delph to file and prosecute suit against the Commonwealth of Kentucky, or the State Highway Commission of Kentucky, or either or both of them.

Said resolution is as follows, viz.:

WHEREAS there is a public highway running out of the City of Harlan, Harlan County, Kentucky, and up Clover Fork of the Cumberland River in said County and State; and,

WHEREAS, the said public highway was built and constructed by the State Highway Commission of Kentucky, and, at all the times herein mentioned was and now is a public highway forming a part of the State Highway System of the State of Kentucky, and maintained and kept in repair by the said State Highway Commission of Kentucky; and,

WHEREAS, in constructing, maintaining, and repairing the said highway, the said State Highway Commission of Kentucky placed or put a culvert across the right-of-way of said highway and under the said road or public highway; and,

WHEREAS, the said Dora Delph was, at all of said times, and now is the owner of and in the possession of the following described tract of land, to-wit:

TRACT NO. 1. BEGINNING at the north east corner of Lot deeded to Robert Howard by J. K. Howard and Wife, on the south side of the County Road at a stone marked with a cross; thence with said lot line Southwardly to the river Clover Fork; thence up said Clover Fork 77 feet to a stone also marked with a cross; thence northwardly with a line

which is parallel with the east line of Robert Howard's lot and 77 feet from same to a stone in the south edge of Clover Fork Pike road now leading up Clover Fork; thence westwardly 77 feet with the south edge of said County Pike to the Beginning.

TRACT NO. 2. A certain boundary of land lying on the north side of Clover Fork of Cumberland River and bounded as follows: Beginning on G. E. Sanders' lot at a rock; thence eastwardly with said line 53 feet to an Alanthis marked with three hacks; thence northwardly a straight line to the edge of the Pike road; thence westwardly to the said road to the G. E. Sanders line 53 feet; thence with said line southwardly to the beginning, and,

WHEREAS, the said two tracts of land are adjacent to and borders on the said Public Highway, and is situated on the lower side of said Highway and between it and the said Clover Fork of Cumberland River; and,

WHEREAS, there are buildings and improvements upon said land, which have at all times mentioned herein have been and now is being used as a dwelling and the appurtenances thereto; and,

WHEREAS, in constructing, maintaining and repairing said Highway, the State Highway Commission of Kentucky has changed, altered, and diverted the natural course and flow of the water above said Highway and turned it through and caused it to flow through said culvert onto and over the said land described above and belonging to the said Dora Delph, thereby covering, overflowing, washing and greatly damaging said land and the buildings thereon; and,

WHEREAS, the damages to the said land, buildings and improvements caused thereby, amounts to the sum of at least \$1500.00; and,

WHEREAS, no compensation whatever has ever been received by, or paid to, the said Dora Delph, or anyone for her use or benefit, by the said State Highway Commission of Kentucky or the Commonwealth of Kentucky, or anyone

whatsoever for the said damages to her land, buildings, and improvements:

NOW, in order to determine by judicial action the question of liability for said damages as aforesaid,

*Therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Dora Delph, in her own right and name, be and she is hereby empowered and authorized to file and prosecute appropriate action or actions against the Commonwealth of Kentucky or the State Highway Commission of Kentucky, or either or both of them, for the purpose of determining the responsibility of the said Commonwealth of Kentucky or the said State Highway Commission of Kentucky, or both or either of them, for said damages to said land, if any there be.

Such action or actions may be brought within five years from the passage of this resolution and in any circuit court of the Commonwealth of Kentucky which may have jurisdiction of such matters as provided by the code and laws of the State of Kentucky in such cases, and may be joined with any action or actions pending wherein circuit courts have competent jurisdiction of the subject matter and parties.

Said suit for Dora Delph for injuries and damages to said land shall be for any sum not exceeding \$1,500.00, and in the event any judgment is recovered by the said Dora Delph for injuries and damages to said land, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the General Funds.

Either party to said suit or suits may appeal from any judgment which may be entered therein as in any other civil action, and the case may be settled and adjusted by and with the consent and approval of the Attorney-General of the State of Kentucky in the same way and manner as any other civil action may be settled or adjusted.



To Committee on Kentucky Statutes No. 1.

Senator R. C. Moss moved that the rules be suspended and the privilege of the floor be extended to Dr. A. T. McCormack, Secretary of the State Board of Health.

Said motion was unanimously agreed to.

Senator E. C. Moore moved that the rules be suspended for the purpose of allowing committees to report.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator E. C. Moore, of the Committee on Appropriations, to which same had been previously referred, reported a bill of the following title, viz.:

S. B. 95. An Act amending and re-enacting Section 2242 of Carroll's Kentucky Statutes, 1936 Revision.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator Sidebottom of the Committee on Education, to which same had been previously referred, reported a bill of the following title, viz.:

H. B. 92. An Act relating to the transfer of school districts or parts of school districts.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator J. Lee Moore of the Committee on Veterans' Legislation, to which same had been previously referred, reported a bill of the following title, viz.:

S. B. 56. An Act to repeal and re-enact Section 2043-12, Carroll's Kentucky Statutes, 1930 Edition, Supplement 1933, the same being Section 12 of Chapter 68 of the Acts of 1930, repealed, amended, and re-enacted by Chapter 54 of the Acts of 1936, and entitled, "An Act concerning the manner of commitment of incompetent veterans of the World War who are beneficiaries of World War Veterans' Act as amended; and regulating the appointment, defining the duties and governing the actions of guardians and committees for beneficiaries of the World War Veterans' Act, as amended, and the World War Adjusted Compensation Act, as amended," and declaring an emergency to exist.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator Gibson of the Committee on Banks and Trust Companies, to which same had been previously referred, reported bills of the following titles, viz.:

S. B. 83. An Act providing that banks incorporated under the laws of any other State shall not do any business in this Commonwealth, except to lend money; and providing

for the repeal of all laws and parts of laws in conflict with this Act.

S. B. 80. An Act to amend and re-enact Section 583 of Carroll's Kentucky Statutes, 1936 Edition, relating to the indebtedness or obligation of a person, company or firm to a bank, the highest amount permitted, certain bills of exchange not included.

S. B. 79. An Act to amend and re-enact Section 610 of Carroll's Kentucky Statutes, 1936 Edition, relating to the indebtedness or obligation of a person, company or firm to a trust company; and providing for a change in the maximum amount permitted.

With the expression of opinion that each of said bills should pass.

Whereupon, said bills were severally read at length for the first time and

Ordered placed in the Calendar.

Senator Gibson of the Committee on Executive Affairs and Federal Relations, to which same had been previously referred, reported a resolution entitled, viz.:

S. Res. 28. A Joint Resolution of the General Assembly of the Commonwealth of Kentucky session 1938, memorializing the President of the United States, the Congress of the United States and the Secretary of Agriculture of the United States to take such action as may be necessary to relieve the distress of the tobacco farmers of Kentucky and adjoining States caused by the recent sharp decline in the price of tobacco by causing a careful examination and investigation to be made of the tobacco companies as to why said

companies suddenly reduced the prices paid for tobacco, by introducing and enacting legislation similar to the Agricultural Adjustment Act so as to control and govern the production of tobacco in the tobacco belt and to take any further action deemed advisable to restore a reasonable market price for tobacco.

With the expression of opinion that same should pass.

Said resolution is as follows, viz.:

WHEREAS, when the tobacco markets of this State opened around December 1, 1937, and prices paid to the tobacco growers of this State by the tobacco companies bidding for same on the markets were fair and reasonable and were such as to enable the tobacco growers in this and adjoining states to receive a fair return on their investment and labor, and

WHEREAS, when said markets were reopened after the Christmas holidays the prices for tobacco bid by said tobacco companies showed a market decline in comparison to prices theretofore bid for the 1937 crop, and

WHEREAS, the Agricultural Adjustment Act passed by the National Congress and approved by the President of the United States and in operation until declared unconstitutional by the Supreme Court of the United States by a divided vote, was of such benefit and advantage to the tobacco farmers of Kentucky and adjoining States that they were able to and did control the production of tobacco, conserve their soil and to receive a fair and reasonable price for their tobaccos:

*Now, therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky, session 1938:*

That the President of the United States, the Congress of the United States, and the Secretary of Agriculture of the United States be memorialized to take such action as may be necessary to promptly ascertain the cause of the recent de-

cline in the price of tobacco sold on the tobacco markets of Kentucky and to further cause to be introduced in the National House of Congress, Legislation similar to the Agricultural Adjustment Act, and

BE IT FURTHER RESOLVED THAT one copy each of this Resolution be forwarded by the Clerk of the Senate, to the President of the United States, to the President of the Senate and Speaker of the House of Representatives of the United States, to the Secretary of Agricultural of the United States, and to the Senators and Representatives of Kentucky in the United States Congress.

Senator Blake moved that the rules be suspended for the purpose of immediate consideration of said last named resolution.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Blake moved that the Senate do now adopt said resolution.

Said motion was agreed to.

Thereupon, said resolution was adopted and agreed to.

Senator McDonald of the Committee on Courts and Legal Procedure, to which same had been previously referred, reported a bill of the following title, viz.:

S. B. 47. An Act to amend and re-enact Section 514 of the Civil Code of Practice, relating to the reversal of judgments by the Court of Appeals.

With committee amendment thereto.



With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator Buckley of the Committee on Libraries and Historical Records, to which same had been previously referred, reported bills of the following titles, viz.:

S. B. 34. An Act to amend Section 2741d-2, Carroll's Kentucky Statutes, 1936 Edition, relating to libraries, boards of trustees, powers members, appointments and term, qualifications and expenditures not to exceed net income and adding to said section auditoriums and club rooms and other public accommodations which have been or may be constructed in connection with public libraries and providing for a board of trustees and giving said board of trustees the power to issue bonds and notes not exceeding ten thousand dollars and providing for the payment of such indebtedness, limiting the amount of said indebtedness which the board may incur for equipping said buildings.

S. B. 90. An Act to amend "An Act authorizing the establishment of free public libraries in cities of the Second and Third Classes", which was enacted at the regular session of the General Assembly of the Commonwealth of Kentucky held in the year 1902, and which was approved March 21, 1902, and which appears as Chapter 70 of the Acts of the General Assembly passed at said regular session of the year 1902, at pages 155 to 158 thereof, and which also appears as Section 3210b-1 of Carroll's Kentucky Statutes, Baldwin's Revision, published in the year 1936, as said Act may have been heretofore amended; and for other purposes.

With the expression of opinion that said bills should pass.

Whereupon, said bills were read at length for the first time and

Ordered placed in the Calendar.

### HOUSE MESSAGE

A message was received from the House of Representatives announcing that they had passed bills and a resolution originating in that body of the following titles, viz.:

H. B. 19. An Act to amend Chapter 94 of the 1936 Edition of Carroll's Kentucky Statutes, by repealing and re-enacting Sections 3767 and 3773 of said Carroll's Kentucky Statutes, being parts of said Chapter 94, relating to the business that may be conducted by limited partnerships and relating to the firm name of such partnerships; and prescribing the types of business that may be thenceforth conducted by limited partnerships and prescribing limitations in firm names to be adopted by such partnerships.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section three thousand seven hundred and sixty-seven (3767) and Section three thousand seven hundred and seventy-three (3773) of Carroll's Kentucky Statutes, be and they are hereby repealed and re-enacted, so that said sections, when repealed and re-enacted, shall read as follows:

“3767. Limited partnerships for the transaction of mercantile, agricultural, mechanical, brokerage and manufacturing business, or for the mining and transporting of coal,

may be formed upon the terms, and subject to the conditions and liabilities, prescribed in this Chapter; but none such shall be formed for the purpose of banking or insurance."

"3773. The business shall be conducted under a firm name composed exclusively of the name of a general partner, or the name of a former general partner who shall have died or who shall have given his consent in writing to the use of his said name, or the names of some or all of the general partners, with or without the addition of the word 'company', or some equivalent term. If the name of any special partner be used by the firm with his consent, or if he make any contract or transact any business for the firm, as agent or otherwise, he shall be deemed a general partner, but he may examine the condition of its affairs and advise as to conducting its business without so becoming a general partner."

Ordered that said bill be printed and referred to the Committee on Banks and Trust Companies.

H. B. 94. An Act to provide for the Incorporation and Regulation of non-profit Hospital Service Corporations.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. This Act shall be known and may be cited as "The Non-Profit Hospital Service Plan Act."

§ 2. Subject to the provisions of this Act, the Secretary of State of Kentucky may issue certificates of incorporation (not for profit) to persons desiring to form a non-profit hospital service corporation.

§ 3. Any corporation organized under the provisions of this Act for the purpose of establishing, maintaining and operating a non-profit Hospital Service Plan, whereby Hospital service not including medical care may be provided by the said corporation or hospital with which it has a contract

for such care, which hospital shall be one which is maintained by the State, or by any of its political subdivisions, or maintained by a corporation organized for hospital purposes under the laws of this State, to those persons who become subscribers to said plan under a contract which entitles each subscriber to certain hospital care, shall be governed by this Act, and shall be exempt from all provisions of the Insurance Code of this State, not otherwise specifically designated herein, and no amendments to said code or to this Act shall apply to them unless they be expressly designated therein.

Providing that nothing in this act shall be construed so as to permit a hospital or other corporation to engage in the practice of medicine, in violation of the medical practice acts.

§ 4. Persons desiring to form a non-profit hospital service corporation shall incorporate under the provisions of this Act, and according to the method and in the manner prescribed by Sections 879, 880, 881, 882 and 883 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition. The articles of incorporation of every non-profit hospital service corporation shall be presented to the Commissioner of Insurance for approval by them before the same shall be filed either in the office of the Secretary of State, or recorded in the County Clerk's office of the County where the principal place of business of the corporation is located. No such corporation shall begin business under this act until it shall have filed with the Commissioner of Insurance a bond in the sum of \$5000.00 with corporate surety—conditioned that it will faithfully comply with its contracts for hospital service such bond shall be maintained during the corporate life of such corporation.

For each two thousand members, or fraction thereof, in excess of five thousand members, the corporation shall file with the commissioner of Insurance an additional bond in the sum of \$1,000.00 with corporate surety conditioned as provided for in the original bond herein, which said additional bond shall be maintained during the corporate life of such corporation, or as long as such increase obtains.

§ 5. Any corporation subject to the provisions of this Act may enter into contracts for the rendering of hospital service which is defined as meaning only hospital care without medical attention as specified in certificates issued to any of its subscribers only with hospital maintained by the State or any of its political subdivisions, or maintained by a corporation organized for hospital purposes under the Laws of this State.

Provided, however, that said hospital rendering hospital service provided for under this act or any hospital issuing certificates for hospital services shall have been approved and certified by the State Commissioner of Health before entering into any contract to render said hospital service either direct or through any corporation herein provided, under such rules and regulations as may be adopted and promulgated by the State Board of Health.

The rates charged by such corporation to the subscriber for hospital service shall, at all times, be subject to the approval of Commissioner of Insurance of the State of Kentucky.

§ 6. Every such corporation shall, annually, on or before the first day of March, file in the office of the Commissioner of Insurance a statement verified by at least two of the principal officers of said corporation, showing its condition on the 31st day of December then next preceding, which shall be in such form and shall contain such matters as the Commissioner shall prescribe.

§ 7. The Commissioner of Insurance, or any other person whom he shall designate, shall have the power of visitation and examination into the affairs of any such corporation, and shall have free access to all of the books, papers and documents that relate to the business of the corporation, and may summon and qualify witnesses under oath to examine its officers, agents or employees, or other persons in relation to the affairs, transactions and condition of corporation.



The cost of such examination shall be paid by the corporation as now provided by law for the examination of Insurance Companies.

§ 8. All costs in connection with the solicitation of subscribers to such hospital service plan shall, at all times be subject to the approval of the Commissioner of Insurance.

Form of certificates issued to subscribers shall first be approved by the State Commissioner of Public Health.

§ 9. The funds of any corporation subject to the provisions of this Act shall be invested only in securities permitted by law of this State for the investment of assets of life insurance companies.

§ 10. Any dissolution or liquidation of a corporation, subject to the provisions of this Act, shall be in accordance with Sections 628, 744, 752, 753 and 754 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition.

Ordered that said bill be printed and referred to Committee on Kentucky Statutes No. 1.

H. B. 91. An Act repealing, amending and re-enacting Section 4135, Kentucky Statutes, Carroll's 1930 Edition, as amended by section 2 of Chapter 129 of the Acts of the General Assembly of the Commonwealth of Kentucky, 1932 regular session, which section relates to revenue and taxation and duties of outgoing sheriffs as delinquent tax collectors and delinquent tax collectors appointed by county judges when outgoing sheriffs fail to qualify, and removing the discrimination as to their compensation; repealing all acts and parts of acts in conflict with this act; and declaring an emergency.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That section 4135, Kentucky Statutes, Carroll's

1930 edition, as amended by section 2 of chapter 129 of the Acts of the General Assembly of Kentucky for 1932 regular session, be and the same is hereby repealed, amended and re-enacted, so that said section as amended and re-enacted shall read as follows, viz.:

“The outgoing sheriff, as soon as his successor has been qualified and his bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records and other property held by virtue of his office and shall make a full and complete settlement of his accounts as sheriff. Except that the outgoing sheriff shall keep in his possession all unpaid tax bills and shall collect and account for same as provided by law, and shall have until the first day of May after his term of office has expired to make his settlement with the auditor of public accounts and the fiscal court of his county and to receive his quietus, and immediately thereafter he shall deliver these records to his successor. On the failure of any outgoing sheriff for ten days to comply with the provisions of this section, he shall be deemed guilty of a misdemeanor and, on conviction, be fined in a sum not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500.00) and be liable on his bond for any default.”

§ 2. That all acts and parts of acts in conflict with this act to the extent of the conflict are hereby repealed.

§ 3. Whereas, there exists a discrimination in the compensation allowed to those delinquent tax collectors who are outgoing sheriffs and the delinquent tax collectors who are appointed by county judges when outgoing sheriffs decline to qualify, which discrimination this act will remove, and to enable the outgoing sheriffs who hereafter qualify as delinquent tax collectors to become the beneficiaries of said removal, an emergency is hereby declared to exist, and this act shall become a law and become effective from and upon its passage by the General Assembly and its approval by the Governor.

Ordered that said bill be printed and referred to Committee on Appropriations.

H. B. 86. An Act providing for a Capital Planning and Zoning Commission to establish and carry out an orderly and comprehensive plan of development for the Capital of Kentucky and its environs.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. *Creating a Commission:*—In order to develop and prosecute a comprehensive, consistent, and co-ordinated plan for the State Capital City and its environs; and in order to preserve and continue a systematic development of zones and districts best suited for their purpose to provide for the location of state, federal, city and county buildings, buildings of monumental character, other general structures and buildings, and provide for the protection of real estate values; and in order to preserve the many historic and scenic attractions and points of interest; and in order to safeguard the Capital City of Kentucky from unwise and haphazard development: There is hereby created a Capital Planning and Zoning Commission, herein referred to as the Commission.

§ 2. *Appointments and Personnel:*—The said Commission shall consist of seven members, all of whom shall serve without pay. One member shall be the head of the State Highway Department. One shall be the State Park Director. One shall be the State Highway Engineer. One shall be the Mayor of the City of Frankfort. Two shall be citizens of the City of Frankfort well qualified to pass upon questions involving the Capital Plan Zoning Ordinances, which two shall be appointed by the Governor. The Governor of the Commonwealth of Kentucky shall serve as ex-officio chairman.

§ 3. *By-Laws, Rules and Regulations:*—The Commis-

sion shall adopt all necessary by-laws, Rules and Regulations as may be required for the conduct of its affairs and for carrying out the provisions of this Act. Four members shall constitute a quorum but no action shall be deemed to have been taken without at least three votes in accord.

§ 4. *Powers and Duties*:—It shall be the duty of the Commission to prepare and adopt a comprehensive plan of development for the Capital City of Kentucky and its environs; to properly provide for and zone the various sections and divisions thereof; and to take the steps necessary to see that its natural scenery is not devastated, and also regulations pertaining to property restrictions, zones, parks, streets, bridges, utilities, and others, be carried out and enforced. All of the powers, and all of the regulations and other provisions, not herein provided to the contrary, which are contained in the laws of this State and granted to City Planning Zoning Commissions of first class cities, shall be, and the same are, hereby also invested in the Capital Planning and Zoning Commission, just as much as if herein repeated or hereto attached, and said powers may be exercised over that area within the corporate limits of the City of Frankfort and for a distance of three miles in all directions from the Franklin County Court house measured in a straight line therefrom.

§ 5. *Employment of Assistants*:—The Commission shall, by employment, secure the services of a thoroughly qualified City Planning Architect or Architects who shall advise and carry out the detail work as directed by the Commission; and, said Commission may employ such other help of a clerical or technical nature as may be deemed expedient, but only within the limits of the funds allotted the Commission by the Legislature or made available to it from other sources.

§ 6. *Power of Eminent Domain*:—The Commission shall have the power of Eminent Domain within the territory affected by its rulings, i.e., all territory within a circle whose center is at the Franklin County Court House and whose

radius is three miles from the Court House, and may purchase out right or through condemnation proceedings, property for use as roads, playgrounds, parks, state, federal or municipal buildings sites, or other proper purposes; and the Commission may preserve same or transfer such properties to other state, federal or municipal bodies upon full agreement with such bodies upon the terms of transfer and use. In so doing, however, the Commission shall not obligate itself, in any of these matters, beyond its available income and funds on hand.

§ 7. *Ordinances*:—The Commission shall have the power to put its regulations regarding the use and zoning of property in the form of ordinances, and all other provisions as provided in laws providing for City Planning and Zoning in cities of the first class which are herein made a part of this Act.

§ 8. *Enforcement*:—It shall be the duty of the officers of the City of Frankfort and the County of Franklin, with the active cooperation of the state police, to enforce the ordinances set up by the Commission.

§ 9. *Penalties*:—Penalties for violations of any ordinance passed by the Commission may be fixed in the ordinance by the said Commission; provided, however, that in no case shall the penalty exceed a fine with a maximum of \$500.00 and jail sentence of six months.

Ordered that said bill be printed and referred to Committee on Revenue & Taxation.

H. B. 105. An Act to provide approved high school service for all pupils.

Said bill is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That it shall be the duty of the board of education of



each county to provide approved high school service within the county for all children of high school grade residing in the county district and the duty of each independent district board of education to provide such service within its district for all children of high school grade residing in such district; provided that if the number of such pupils of either race is not sufficient in any county or independent district to maintain a high school, the board shall provide it by transporting them daily to an approved high school in another county or district, or shall do so by providing for their maintenance within reasonable walking distance of such school if it is found more feasible or more economical to do so.

Ordered that said bill be printed and referred to Committee on Education.

H. B. 116. An Act to amend Section 1243 Carroll's 1930 Edition Kentucky Statutes by adding thereto the words "Provided that if the offense be committed within the corporate limits or the prosecution originated in the police court of any city or town within this Commonwealth the person convicted for the offense shall be confined in the city or town jail of the municipality in which the offense was committed and conviction had, if such a jail be maintained and kept by such municipality.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 1243 of Carroll's 1930 Edition of Kentucky Statutes be amended by adding thereto the words "Provided that if the offense be committed within the corporate limits or the prosecution originated in the police court of any city or town within this Commonwealth the person convicted for the offense shall be confined in the city or town jail of the municipality in which the offense was committed and con-

viction had, if such a jail be maintained and kept by such municipality" so that said Section when amended shall read as follows:

Section 1243. Petit Larceny.—Any person, except a female, who shall steal a hog of less value than four dollars or be guilty of the larceny of money, goods, chattels or other property of less value than twenty dollars (\$20.00) shall be punished by confinement in the county jail for not less than one nor more than twelve months; females convicted of petit larceny shall be confined in the county jail not more than thirty days and provided that if the offense be committed within the corporate limits or the prosecution originated in the police court of any city or town within this Commonwealth, the person convicted for the offense shall be confined in the city or town jail of the municipality in which the offense was committed and conviction had, if such a jail be maintained and kept by such municipality.

All laws or parts of laws in conflict herewith are hereby repealed.

Ordered that said bill be printed and referred to Committee on Revenue & Taxation.

H. B. 137. An Act repealing and re-enacting Section 2739g-34a, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to driving a motor vehicle while intoxicated, prescribing a penalty therefor, and repealing all acts, parts of acts, and laws in conflict with this act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 2739g-34a, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby repealed and re-enacted, so that said section as repealed and re-enacted shall read as follows:

“That is shall be unlawful for any person to operate a motor vehicle or any other kind of vehicle upon any of the public highways of this Commonwealth while under the influence of intoxicants or while in an intoxicated condition; and for each violation of the above provision the person so offending shall be fined, for the first offense, not less than One Hundred (\$100) Dollars nor more than Five Hundred (\$500) Dollars, and for the second and each subsequent offense he shall be fined not less than One Hundred (\$100) Dollars nor more than Five Hundred (\$500) Dollars, and imprisoned not less than thirty (30) days nor more than six (6) months.”

§ 2. Upon the conviction of a person violating Section 1 of this Act, the Judge of the Justice's, County, Quarterly or Police Court before whom the person is convicted shall forthwith certify to the Circuit Clerk of his County a copy of the order of conviction. The Circuit Clerk at the term of the Circuit Court in his County shall present the certified order of conviction as received from the inferior court to the Circuit Judge.

§ 3. All laws and parts of laws in conflict herewith are hereby repealed to the extent of such conflict.

Ordered that said bill be printed and referred to Committee on Regulation of Intoxicating Liquors.

H. B. 96. An Act relating to roads and highways.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. All roads and highways heretofore established as a part of the Primary System of Public Highways and all other public roads within the Commonwealth of Kentucky, now or hereafter established, shall be deemed a part of the State Primary Road System, and may be constructed, re-

constructed, improved and maintained by the Department of Highways.

§ 2. The Department of Highways hereby is vested with full authority to determine what public highways shall be constructed, reconstructed, improved and maintained by said Department. Said Department is further vested with full authority to determine the type of construction or reconstruction, improvement or maintenance that shall be made of any road or part of a road or highway which said Department proposes to construct, reconstruct, improve or maintain. Before advertising for bids for the construction or reconstruction of any highway, the Department of Highways may determine the type or types of improvement desired, and may advertise and receive bids for the construction of only the particular type or types of construction so determined.

§ 3. The Department of Highways is hereby vested with full authority to select the route for the construction, reconstruction or improvement of any public highway to be constructed, reconstructed or improved by said Department, and may deviate from any existing route whenever it deems such deviation proper.

§ 4. Nothing in this Act shall be construed as requiring the Department of Highways to construct, reconstruct, improve or maintain any public highway except as may be determined by the Department of Highways in the exercise of its discretion.

§ 5. The terms "roads" and "highways" as used in this Act shall be construed to include bridges and their approaches.

All powers and duties of the Department of Highways now or hereafter vested or imposed by law relating to the construction, reconstruction, improvement or maintenance of primary roads or of the Primary System of Highways, shall apply fully to all public highways now established or hereafter established or embraced within the provisions of this Act.

§ 6. All laws or parts of laws in conflict herewith, to the extent of such conflict hereby are repealed.

Ordered that said bill be printed and referred to Committee on Roads and Highways.

H. B. 102. An Act creating the Kentucky State Fair Board; providing for its membership, their compensation and expenses, and prescribing its powers and duties; providing for liens on property of exhibitors and concessionaires to secure indebtedness due from them to said Board, and for the enforcement of such liens.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. There is hereby created the Kentucky State Fair Board. Said Board shall be a body corporate, and shall have power to sue and be sued, to contract and be contracted with, and possess all the immunities, rights, privileges and franchises usually attaching to corporate bodies. The Kentucky State Fair Board is hereby attached to and made a part of the Department of Agriculture, Labor and Statistics.

§ 2. The Kentucky State Fair Board shall be composed of the members of the State Board of Agriculture.

§ 3. The members of the Kentucky State Fair Board shall be allowed their necessary traveling and hotel expenses, and, with the exception of the Commissioner of Agriculture, Labor and Statistics, who receives an annual salary from the State, shall be allowed \$10.00 per day for attending the meetings of the Board, which shall not exceed twenty-five (25) in number in any one year, and for services rendered in carrying on the State Fair.

§ 4. The Kentucky State Fair Board shall elect from its membership a President and a Vice-President. It shall have authority to employ such employees and agents as it



shall deem necessary for the conduct of its affairs and those of the State Fair. The Board shall have authority to fix the duties and the compensation of such employees and agents, the compensation of any such employees and agents in no event to exceed the sum of \$3,600.00 per year. It shall have the authority to require any such employees or agents to give bond for the faithful performance of his duties, and the Board may pay the premium on such bond.

§ 5. In addition to the powers hereinbefore vested in it, the Kentucky State Fair Board shall have the following powers:

(a) It shall have the custody and control of the State Fair Grounds, including the buildings and equipment thereon, with power to erect and repair buildings on said grounds, and make any and all necessary or proper improvements thereon.

(b) It shall have power and it shall be its duty to hold an annual Fair on said grounds, for the exhibition of agriculture, mechanical, horticulture, dairy, forestry, poultry, live stock, mineral and all other industrial interests of the State.

(c) It shall have the power, and it shall be its duty, to prepare premium lists, and establish rules of exhibition for such Fair.

(d) It shall have the power to take and hold property by deed, gift, devise or bequest, for Fair purposes.

(e) It shall have the power to delegate the management of the State Fair and/or the State Fair Grounds to any employee or agent, or it may delegate such management to an Executive Committee of the Board, and in carrying on such affair, it may employ such assistants as may be deemed necessary.

§ 6. The Kentucky State Fair Board shall require that a complete record of all its meetings be kept. The said Board shall have power to arrange with the County Judge or with such municipal officer as has charge of the municipal police

force of any County or City in which such State Fair may from time to time be held, for the proper policing of the State Fair Grounds, and shall have further power to arrange with the State of Kentucky for the policing of such State Fair Grounds by the State Police. In the event the Board is unable to arrange with said City, County or State authority for such police protection, then in that event it may appoint or may delegate to any agent or employee the power to appoint, subject to the approval of the Board, such number of special police as it, or he, may deem necessary for the proper policing of the State Fair Grounds, and such police officers are hereby vested with the powers and charged with the duties of peace officers. The Board shall also cause to be kept a correct account of its receipts and disbursements.

§ 7. The Kentucky State Fair Board shall not give to any person a free pass, ticket, or box, to or in said State Fair or any House Show held therein.

§ 8. No member of the Kentucky State Fair Board, or any official of any Department, shall be an exhibitor in competition for premium or prize money at any State Fair held while he is a member of the Board, or an official of any Department.

§ 9. The Kentucky State Fair Board shall have exclusive control of concessions, exhibitions, shows, entertainments and attractions at any place within the confines of the grounds of the Kentucky State Fair. It may delegate such control to any of its employees or agents herein provided for, or to an Executive Committee. The Kentucky State Fair Board shall have a prior lien upon the property of any concessionaire, exhibitor or person immediately upon coming or being brought on the grounds to secure existing indebtedness, as well as that which might afterwards arise, with power in any employee or agent of said Board designated by it, to sell the same, the proceeds of sale to be applied to the satisfaction of the indebtedness, said sale to be after giving ten days' notice to the owner or agent of the owner, and in the event this

cannot be done, by posting a notice in the office of the Board on the grounds, that the sale of said property is to be had, and the Kentucky State Fair Board, through its designated agent, shall have the right to bid and buy in the property offered for sale for the use and benefit of the Kentucky State Fair.

§ 10. All property of whatsoever nature and description, whether real, personal or mixed, and all claims and demands due to or from the State Board of Agriculture, and pertaining to the Kentucky State Fair, are hereby transferred to and vested in the Kentucky State Fair Board.

§ 11. The sum annually or otherwise appropriated by the General Assembly of the Commonwealth of Kentucky, to be used for premiums alone, shall be paid on or before the first day of September of each year, to said Kentucky State Fair Board, to be disbursed by said Board through any agent it shall appoint for said purpose, who shall execute bond to the State of Kentucky, to be approved by the Department of Finance in such sum as may be fixed by said Department, for the faithful disbursement of such money; provided, no money shall be paid out of said premium fund except upon checks which have been countersigned by an agent of the Commissioner of Finance, and for that purpose said Commissioner shall designate an agent who shall keep an office upon the Fair Grounds for the duration of each annual Fair for the purpose of carrying out the provisions of this section.

Said Kentucky State Fair Board shall, within ninety days after holding such annual State Fair, render to the Department of Finance of the State, an itemized statement showing the disbursements of such appropriation.

§ 12. Sections 37-14a, 4618b-1, 4618b-2, 4618b-3, 4618b-4, 4618b-5, 4618b-6, 4618b-7, 4618c-1, 4618c-2, 4618d-1, 4618d-2, 4618d-3, 4618d-4, 4618d-5, 4618e-1, 4618e-2, 4618e-3, 4618e-4, 4618e-5, 4618e-6, 4618f-1, 4618f-2, 4618g-1, 4618g-2, 4618h-1, 4618h-2, 4618h-3 and 4618h-4 of Carroll's Kentucky Statutes;

1936 Edition, and all Acts and parts of Acts in conflict herewith are hereby repealed.

§ 13. So much as may be necessary of the appropriation provided in the subsection (b-1) of section 14 of the Appropriation Act for 1938-1939 and provided in subsection (b-1) of section 14 of the Appropriation Act for 1939-1940, in Chapter I of the Acts of the General Assembly of 1938, for paying per diems to members of the Board of Agriculture, may be allotted by the Commissioner of Finance to a fund for the payment of per diems to members of the Kentucky State Fair Board.

§ 14. Inasmuch as the Kentucky State Fair is held annually in the month of September, and it is necessary for the holding of the Fair in 1938 that the reorganization herein provided for shall be made promptly effective, an emergency is hereby declared to exist, and this Act shall take effect from and after its passage and approval.

Ordered that said bill be printed and referred to Committee on Agriculture & State Fair.

H. B. 6. An Act to amend Section 1 of Chapter 87 of an Act entitled: "An Act to authorize the incorporation of Chambers of Commerce, provide for their government and the collection of dues and to authorize appropriations thereto by City Councils and City Commissioners of cities of the third and fourth classes in the Commonwealth of Kentucky; and to include cities of the second class," said Act being enacted by the General Assembly and approved March 17, 1928, and being Sections 2741n-1, Kentucky Statutes, 1930 Carroll's Edition, making the provisions of said Act applicable to cities of the second class.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 1 of Chapter 87 of an Act, entitled an



Act to authorize the incorporation of Chambers of Commerce, provide for their government and collection of dues, and to authorize appropriations thereto by City Councils and City Commissioners of cities of the third (3rd) and fourth (4th) class in the Commonwealth of Kentucky; said Act being enacted by the General Assembly and approved March 17, 1928, and same being Section 2741n-1, Kentucky Statutes, 1930 Carroll's Edition, be and the same is hereby amended and re-enacted to read as follows:

“Creation; purpose.—For the purpose of advertising, promoting and developing the natural resources, and to promote the general welfare, better business methods, and civic conditions, a corporate body is hereby authorized in cities of the second (2nd), third (3rd), and fourth (4th) class in the Commonwealth of Kentucky.”

Ordered that said bill be printed and referred to Committee on Revenue & Taxation.

H. B. 5. An Act relating to the embezzlement, conversion, misappropriation and/or misapplication of the sinking fund in cities of the second class in the Commonwealth of Kentucky; providing penalties for the non-observance thereof and fixing upon city officers and employees civil liability therefor, and providing for the recovery of any and all amounts so embezzled, converted, misappropriated and/or misapplied.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Any officers, agents and/or employees having charge, control and/or possession of the sinking fund or any portion thereof, or any of its property, money or evidences of property, or stocks, bonds, or other valuable thing of any city of the second class of the Commonwealth of Kentucky,



who shall willfully embezzle, convert, misappropriate and/or misapply, or who, as a member of the General Council or Board of Commissioners, shall vote to so embezzle, convert, misappropriate and/or misapply such sinking fund, or any portion thereof, or any officer, agent or employee who could by refusal to act have prevented said embezzlement, conversion, misappropriation and/or misapplication, whether said embezzlement, conversion, misappropriation and/or misapplication be for the purpose of paying, securing or liquidating commitments, and/or debts of said municipality or otherwise, except as provided in Sections 3190, et seq., Carroll's Kentucky Statutes, 1930 Edition, shall be deemed guilty of a felony, and upon conviction therefor, shall be confined in the penitentiary of this State for not less than one (1), nor more than twenty (20) years, at the discretion of the jury, and such officers, agents, and/or employees so offending, or their sureties, shall jointly and severally be and they are hereby made personally liable for the amount of such embezzlement, conversion, misappropriation, and/or misapplication. It shall be the duty of the City Solicitor or other legal officer of the municipality to institute and prosecute to recovery, such civil actions, and if he fails to do so for six (6) months after he shall have knowledge of the same, any resident and taxpayer may institute the action or actions in his or her own name, and shall have one-half of the recovery. A civil recovery hereunder shall not militate against the criminal prosecution herein elsewhere provided.

§ 2. This act shall take effect and be in force from and after its passage.

Ordered that said bill be printed and referred to Committee on Criminal Law.

H. B. 93. An Act to amend and re-enact Section 2241 of the Kentucky Statutes, Baldwin's 1936 Revision, provid-

ing for additional jury commissioners and prescribing their duties.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The circuit judge of each county shall at the first regular term of circuit court therein, after this act takes effect, and annually thereafter, appoint one intelligent and discreet housekeeper from each magisterial district of the county, over the age of twenty-one years, and having no action in court requiring the intervention of a jury, as jury commissioners for one year, who shall be sworn in open court, to faithfully discharge their duty. They shall hold their meetings in some room designated by the judge; and, while engaged in making lists of juries and selecting the names, writing and depositing or drawing them from the drum or wheel case, no person shall be permitted in said room with them, except that in counties containing a city of the first class the commissioners may select a clerk to aid them in the performance of their duty, who shall be sworn in open court to faithfully discharge his duties, and who shall be in attendance on the commissioners in session; and such counties by their board of magistrates or fiscal court are hereby authorized and empowered to allow and pay to the clerk of the jury commissioners, herein provided for, such compensation as they may deem just and proper, not exceeding, however, the sum of one hundred dollars (\$100.00) in any one year.

They shall take the last returned assessor's book for the county and from it shall carefully select from the intelligent, sober, discreet and impartial citizens, resident housekeepers in different portions of the county, over twenty-one years of age, the following number of names of such persons, to-wit:

In counties having a population of ten thousand or less, not less than one hundred and twenty-five nor more than one hundred and fifty; in counties having a population of more

than ten thousand and not exceeding twenty thousand, not less than one hundred and fifty, nor more than three hundred; in counties having a population exceeding twenty thousand and not exceeding fifty thousand, not less than five hundred, nor more than six hundred; in counties having a population exceeding fifty thousand, and not exceeding one hundred thousand, one thousand, and in counties having a population exceeding one hundred thousand, and its circuit court divided into branches, two thousand for each division of the court requiring the services of a jury. The number of persons selected for jury service in each county of the state shall be apportioned among the magisterial districts according to the population of each district. The population figure shall be determined by the number of registered voters, as evidenced by the registration books in the office of the County Court Clerk, the number so selected for jury service from each magisterial district bearing the same ratio to the total number as the number of registered voters in the district shall bear to the total number of registered voters in the county.

In counties having circuit courts of continuous sessions, wherein part of the sessions are authorized to be held in a city of the second class not the county seat of the county, the court shall have a separate drum or wheel case for use at such county seat, and commissioners shall be appointed, as herein provided, who shall select not less than one hundred and twenty-five nor more than one hundred and fifty of such names.

They shall write each name, and in counties having cities of the first, second or third class the address of the person so selected, in plain handwriting, on a small slip of paper, each slip being as near the same size and appearance as practicable; and each slip with the name, and when provided herein, the address, written thereon, shall be by them enclosed in a small case made of paper or other material and deposited, unsealed, in the revolving drum or wheel case hereinafter provided for; but upon depositing any of said slips in said

drum or wheel case, they shall carefully examine its contents and remove therefrom and destroy any slips found therein. When said slips have been deposited in said drum or wheel case, it shall be locked and revolved, or so shaken as to thoroughly mix said slips; then it shall be unlocked and they shall draw therefrom a sufficient number of names to procure twenty-four persons, qualified as hereinafter provided to act as grand jurors; and if, in doing this the name of any person not qualified to act as grand juror is drawn, the same shall be returned to the drum or wheel case. Said names shall be drawn one by one, and only the names of those qualified shall be recorded on paper until the twenty-four are secured; and said lists shall be certified, signed and enclosed by them in an envelope made of good paper, and it shall be sealed; and their names written across the seal thereof, and directed to the judge of the circuit court, adding the words, "criminal division," when said circuit court is divided into branches, and endorsed, "A list of the grand jury for the ..... circuit court to be held in the month of ..... in the year ....., " adding the words, "criminal division" after the words, "circuit court," when there are branches of the circuit court from which list the next grand jury for said county shall be impaneled as hereinafter directed. After completing the list of grand jurors, they shall lock said drum or wheel case and revolve or shake it so as to thoroughly mix the slips remaining therein, and then unlock the same and draw therefrom, one by one, the names of not less than thirty nor more than thirty-six persons, as the judge of the court may direct, and record the same upon paper as drawn, which, in like manner, shall be certified, signed and inclosed by them in an envelope made of good paper, and it shall be sealed, and their names written across the seal thereof, and directed to the judge of the circuit court, adding the name of the division of said court for which said list of jurors is selected, when such court is divided into branches, and endorsed: "A list of the petit jury for the ..... year ....., " adding the



name of the division court for which said jury is selected, in cases when the circuit court is divided into branches from which list the next petit jury for said county in said court shall be selected and impaneled as hereinafter directed. The slips of paper upon which are written the names of persons placed by said commissioners upon the lists of grand and petit jurors shall be destroyed by the commissioners as soon as the names are recorded on said list. Circuit courts divided into two divisions shall have two commissioners for each division requiring the services of a jury therein, and circuit courts divided into more than two divisions shall have one commissioner for each requiring the services of a jury therein, to be appointed and qualified by the judge thereof.

Circuit courts having two divisions shall have but one drum or wheel case, and circuit courts having more than two divisions shall have a separate drum or wheel case for each division, which said commissioners shall use in making up the juries and selecting jurors in the manner above provided for said divisions respectively; but no grand jury shall be made or grand jurors drawn by said commissioners, or any one else, for any other than the criminal division of a circuit court having branches.

When the commissioners have completed the list of jurors they shall lock the drum or wheel case containing the remaining names and deliver it and the key thereto, said sealed list, or lists, and all slip cases not used to the judge of the circuit court for which said jurors are selected, who shall deliver them, except the key, to the circuit court clerk in open court and at the time administer to him and his deputies the following oath, to-wit: "You do solemnly swear that you will not open this drum or wheel case, except in open court, under the direction of the judge of this court, and that you will not open the envelopes containing the lists of petit (or grand and petit jurors, as the case may be), for the session of this court to be held in the month of ..... in the year of ....., until the time fixed by law; that you will not, directly



or indirectly, converse with anyone selected as a petit juror concerning any suit for trial in this court, at its next term, unless by leave of court." Should the clerk subsequently, in vacation, appoint a deputy he shall administer to him a like oath; and if the clerk or any other person, except as herein provided, shall open or unlock or break into, or in any way wilfully injure the wheel or drum, or lock thereof, or, except as herein provided, shall wilfully open or break the seal of the envelope, containing the jury list or lists, the person so offending shall be guilty of felony, and punishment by confinement in the penitentiary for not less than one or more than five years.

Ordered that said bill be printed and referred to Committee on Revenue & Taxation.

H. Res. 42. A resolution inviting General James A. Drain to speak before a joint meeting of the House and Senate of the General Assembly of Kentucky, sitting as a Committee of the Whole on January 27, 1938, at 2:30 P. M.

Said resolution is as follows, viz.:

WHEREAS, General James A. Drain past Commander of the American Legion, now representing the Social Security Board, will be in Lexington, Kentucky, on Wednesday, January 26, 1938, for the purpose of speaking before several public gatherings.

WHEREAS, General Drain is thoroughly conversant with the Social Security Act, and is also an outstanding citizen and legionnaire, therefore

BE IT RESOLVED, that the House of Representatives and Senate concurring herein invite General Drain to speak before the General Assembly sitting as a Committee of the Whole on January 27, 1938, at 2:30 P. M. in the House Chamber; that the Speaker of the House and the President of the Senate appoint three members from each body to notify

General Drain and make such arrangements as are necessary to accomplish the purpose for which this Resolution is adopted.

Ordered that said resolution be referred to the Committee on Veterans' Legislation.

Senator J. Lee Moore moved that the Senate do now recess for ten minutes.

Said motion was agreed to.

And then the Senate recessed.

At the expiration of the appointed time, the President of the Senate resumed the Chair and called the Senate to order

Senator J. Lee Moore moved that the rules be suspended for the purpose of allowing committees to report.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator J. Lee Moore of the Committee on Veterans' Legislation, to which same had been previously referred, reported a resolution of the following title, viz.:

H. Res. 42. (For title see S. J. of today, ante.)

With the expression of opinion that same should be adopted.

Senator J. Lee Moore moved that the rules be suspended for the purpose of immediate consideration of said resolution.

Said motion was unanimously agreed to.

Whereupon, Senator J. Lee Moore moved the adoption of said resolution.

Said motion was agreed to.

And thereupon, said resolution was adopted and agreed to.

Senator Bush moved that the rules be suspended for the purpose of allowing committees to report.

Said motion was agreed to by a majority of members elected.

Whereupon, Senator Bush of the Committee on Municipalities, to which same had been previously referred, reported a bill of the following title, viz.:

S. B. 38. An Act to amend and re-enact Section 913-1 Kentucky Statutes, 1936 Edition.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator Ervine Turner, of the Committee on Roads and Highways, to which same had been previously referred, reported bills of the following titles, viz.:

S. B. 2. An Act creating and establishing as a part of the primary system of highways of the Commonwealth of Kentucky, a road from the mouth of Abner Fork of Left Beaver Creek, in Floyd County, Kentucky, to mouth of Mar-

shall's Branch of Long Fork Creek in Pike County, Kentucky.

S. B. 16. An Act adding to the primary system of public roads of the Commonwealth of Kentucky and making parts thereof of all duly recognized roads and highways in the Commonwealth of Kentucky.

S. B. 91. An Act creating and establishing as a part of the Primary System of Highways in the Commonwealth of Kentucky a road in Pulaski County, beginning at Elihu running through Cabin Hollow and Northfield to the old Coal Bank road at Jugornot.

S. B. 22. An Act establishing as part of the Primary System of State Highways certain roads near the City of Glasgow in Barren County.

S. B. 23. An Act establishing as part of the Primary System of State Highways a road known as the MARCUM'S MILL ROAD in Metcalfe County.

S. B. 21. An Act establishing as part of the Primary System of State Highways certain roads near the City of Glasgow in Barren County.

S. B. 20. An Act establishing as part of the Primary System of State Highways a road known as the SABEN'S MILL ROAD in Barren County.

With the expression of opinion that each of said bills should pass.

Whereupon, said bills were severally read at length for the first time and

Ordered placed in the Calendar.

Senator Gilbert moved that the Senate do now adjourn.

Said motion was agreed to.

And then the Senate adjourned.

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### WEDNESDAY, JANUARY 26, 1938.

The Senate convened and was called to order by the Lieutenant Governor of the Commonwealth, the Honorable Keen Johnson, President of the Senate.

The Senate was opened with prayer by the Reverend Brooks Hargrove.

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	J. Joseph Hettinger	John A. Sugg, Jr.
Aubrey Barbour	H. Watt Hillman	Jos. P. Tackett
Paul M. Basham	Wm. H. Jones, Jr.	J. E. Trager
H. Stanley Blake	Leo King	Ervine Turner
Ollie J. Bowen	J. W. McDonald	Thomas O. Turner
Leer Buckley	Stanley B. Mayer	E. T. Wesley
Dr. D. H. Bush	Strother Melton	Otis White
Waller A. Crockett	E. C. Moore	O. C. Whitfield
Edwin C. Dawson	J. Lee Moore	B. M. Williams
W. C. Farmer	Ray B. Moss	J. E. Wise
Lee Gibson	James C. Rogers	J. M. Wolfenbarger
Ralph Gilbert	Ira W. See	
John M. Hall	Paul L. Sidebottom	

Senator Dawson moved that the reading of the Journal of the proceedings of Tuesday, January 25th, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.



Senator Ervine Turner moved that a leave of absence be granted to Senator R. C. Moss and other absent Senators.

Said motion was agreed to.

Senator Gibson moved that the rules be suspended and the privilege of the floor be extended to Mr. Douglas Bowling of Owensboro, Kentucky.

Said motion was unanimously agreed to.

Senator Buckley moved that the rules be suspended and the privilege of the floor be extended to Mr. Anthony W. Thomason of Lexington, Kentucky.

Said motion was unanimously agreed to.

Senator King moved that the rules be suspended and the privilege of the floor be extended to Messrs. Robert B. Posey, J. Alvis Clore, H. H. Mahurin, P. A. Melton, and Frank Street.

Said motion was unanimously agreed to.

### HOUSE MESSAGE.

A message was received from the House of Representatives announcing that they had passed bills and resolutions originating in that body of the following titles, viz.:

H. B. 35. An Act adopting as the Civil and Criminal Codes of Practice of the Commonwealth of Kentucky, the edition of Carroll's Kentucky Codes, Civil and Criminal, compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in the year 1938.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the edition of Carroll's Kentucky Codes of Practice, Civil and Criminal, compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in the year 1938, be and the same are hereby adopted as the Civil and Criminal Codes of Practice of the Commonwealth of Kentucky, and in all Civil and Criminal proceedings, the Civil Code contained therein from sections 1 to 839 inclusive, and the Criminal Code from sections 1 to 450 inclusive, may be cited or referred to as the Civil and Criminal Codes of Practice of the Commonwealth of Kentucky by reference to, or citation of any of said sections, and any of the sections therein may be amended or repealed by the General Assembly of the Commonwealth of Kentucky in the manner now provided by reference to and citation of the section of said Carroll's Codes of Practice without giving the date or title of the act from which the section is taken.

Whereas this act will save a great deal of labor and time in the investigation and enactment of laws, and will prevent confusion and uncertainty, an emergency is declared to exist, and this act shall take effect and be in force from and after its approval by the Governor.

All acts or parts of acts in conflict with this act are hereby repealed.

Ordered that said bill be printed and referred to the Committee on Criminal Law.

H. B. 36. An Act adopting as the law of the Commonwealth of Kentucky the edition of Carroll's Kentucky Statutes compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in the year 1936, and the Supplement thereto compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in April, 1937, and the Supplement thereto compiled and edited by William

Edward Baldwin and Richard Priest Dietzman, issued in the year October, 1937, and known as Baldwin's Kentucky Statutes Service.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the edition of Carroll's Kentucky Statutes compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in the year 1936, and the Supplement thereto compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in April, 1937, and the Supplement thereto compiled and edited by William Edward Baldwin and Richard Priest Dietzman, issued in October, 1937, and known as Baldwin's Kentucky Statutes Service, be and the same are hereby adopted as the law of the Commonwealth of Kentucky, and in all actions and proceedings the laws contained therein from sections 1 to 4987, inclusive, including amendatory or supplemental sections may be cited or referred to as the law of the Commonwealth of Kentucky by reference to, or citation of any of said sections, and any of the sections therein may be amended or repealed by the General Assembly of the Commonwealth of Kentucky in the manner now provided, by reference to and citation of the section of said Statutes without giving the date or title of the act from which the section is taken.

Whereas this act will save a great deal of labor and time in the investigation and enactment of laws, and will prevent confusion and uncertainty, an emergency is declared to exist, and this act shall take effect and be in force from and after its approval by the Governor.

All acts or parts of acts in conflict with this act are hereby repealed.

Ordered that said bill be printed and referred to Committee on Courts and Legal Procedure.

H. B. 100. An Act to repeal, amend and re-enact Section 136d-1 of Carroll's Kentucky Statutes, 1936 Edition, being part of the Acts of the General Assembly of the 1936 Regular Session and Chapter 7 of said Acts, all of which relates to the employment of stenographers to the county attorney in counties containing cities of the third class or a population of fifty thousand or over and by adding thereto counties containing cities of the fourth class and fifth class.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 136d-1 be and the same is hereby repealed, amended and re-enacted so that when repealed, amended and re-enacted, said section shall read as follows:

(1) In all counties of this Commonwealth containing cities of the third or fourth class or fifth class, or a county containing a part of a third class city or having a population of fifty thousand people or over there is hereby created, subject to the discretion of the Fiscal Court or County Commissioners of said county the office of stenographer or clerk to the County Attorney. Said stenographer or clerk shall be appointed by the County Attorney for a term of four years but may be removed at any time by the said County Attorney.

(2) Said stenographer shall receive a salary of not less than six hundred nor more than twelve hundred dollars per annum to be paid by the Fiscal Court of such county and shall be payable out of the county levy of said county in equal monthly installments.

All laws or parts of laws in conflict herewith are hereby repealed.

Ordered that said bill be printed and referred to Committee on Appropriations.

H. Res. 8. A Resolution authorizing D. J. Harman of

Wayland, Kentucky, to sue the Commonwealth of Kentucky and/or the State Highway Commission.

Said resolution is as follows, viz.:

WHEREAS, on the 25th day of October, 1937, D. J. Harman of Wayland, Kentucky, while traveling at or near Stanton, Kentucky, going towards the town of Winchester, Kentucky, was injured by a large truck of the Highway Department striking his automobile and demolishing same, and

WHEREAS, his right knee was severely injured, leaving the knee stiff, and also breaking his nose, lacerating his face and forehead and lips and loosening several teeth, and

WHEREAS, the said Harman sustained serious and permanent injury by reason of the alleged carelessness and negligence of the employees of the State Highway Commission in the conduct of the State's business; therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That D. J. Harmon be, and he is hereby authorized and permitted to sue the Commonwealth of Kentucky and/or the State Highway Commission, in the circuit court of the county of his residence, for such damages and injury as he may have suffered, if any, by reason of any injury received by him through the carelessness or negligence of the State Highway Commission, its agents or employees. In the event any judgment may be recovered by the said D. J. Harman the same shall be paid by the Auditor by warrant on the Treasurer of the Commonwealth.

§ 2. Either party to said suit may appeal from any judgment rendered in this case to the Court of Appeals of Kentucky, and the case may be settled and adjusted with the consent of the Attorney General of Kentucky in the same way as any other civil suit.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.



H. Res. 9. Resolution authorizing Fannie B. Anderson, Sallie B. Jones and Ada Hathaway respectively to sue the Commonwealth of Kentucky and the State Highway Commission, or either.

Said resolution is as follows, viz.:

WHEREAS, on the 12th day of August, 1937, at or about the hour of 9:45 A. M., about two miles northwest of Shelbyville, Kentucky, on the public highway between Shelbyville and Louisville, Kentucky, in a collision between a truck owned by the State of Kentucky, then being operated, managed, and controlled and used by an employee of the State Highway Commission of the Commonwealth of Kentucky in the performance of his duties on the State Highway between Louisville and Shelbyville, and an automobile owned and operated by Sam Etherly in which Fannie B. Anderson, Sallie B. Jones and Ada Hathaway were travelling as passengers, Fannie B. Anderson, Sallie B. Jones and Ada Hathaway were injured, and

WHEREAS, Fannie B. Anderson, Sallie B. Jones and Ada Hathaway and each of them have sustained serious and permanent injuries by reason of alleged carelessness and negligence of the employees of the State Highway Commission in the conduct of the business of the State of Kentucky.

NOW, in order that Fannie B. Anderson, Sallie B. Jones and Ada Hathaway, and each of them, may have their "Day in Court" to determine by judicial action the question of negligence, if any, of the employees of the State Highway Commission of the State of Kentucky, causing said injuries aforesaid,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Fannie B. Anderson, Sallie B. Jones and Ada Hathaway; and each of them in their own right and name, be and they are respectively hereby empowered and authorized to file and prosecute appropriate actions, severally and

respectively, against the Commonwealth of Kentucky and the State Highway Commission, or either, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission, or either, for such injuries, if any there be; and in the event any judgment in either action is recovered by said Fannie B. Anderson, Sallie B. Jones or Ada Hathaway, or either of them, or same are compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Either party to any suit may appeal from any judgment which may be entered therein as in other civil suit and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

§ 3. Said actions may be brought in any county of Kentucky having jurisdiction of the parties and subject matter. The limit of liability as to Fannie B. Anderson shall be Six Thousand (\$6,000.00) Dollars, and as to Sallie B. Jones shall be Six Thousand (\$6,000.00) Dollars, and as to Ada Hathaway shall be Six Thousand (\$6,000.00) Dollars.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 10. Resolution authorizing John R. Clarke, Jr., and Edith S. Clarke to sue the Commonwealth of Kentucky, the State Highway Commission, or either or both of them.

Said resolution is as follows, viz.:

WHEREAS, on the 21st of October, 1937, about 8:30 A. M., John R. Clarke, Jr. and his wife Edith S. Clarke of Jackson, Breathitt County, Kentucky, were injured and the car of John R. Clarke, Jr., practically demolished while John R. Clarke, Jr., was driving his car West on Highway No. 60 at a point about fifteen miles East of Morehead in Carter County, Kentucky.

WHEREAS, at the time of said accident Mr. Carol Ratliff, the right-of-way agent for the State Highway Department, while acting in the scope of his employment and upon the duties of the said Highway Department, negligently and carelessly caused the State Highway Department car to run into and collide with the car of John R. Clarke, Jr., causing John R. Clarke, Jr., and his wife, Edith S. Clarke to be injured, from which injuries they were compelled to have medical attention and suffered great pain for a long period of time.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That John R. Clarke, Jr., and Edith S. Clarke, his wife, be, and they are hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission, or both or either of them in the Circuit Court of Carter County, Kentucky, for such damages as they suffered by reason of personal injuries and property damage caused and brought about by the carelessness and negligence of the State Highway Commission, its agents or employees.

That said suit shall be for an amount not exceeding the amount of Five Thousand (\$5,000.00) Dollars, and in the event any judgment is recovered by John R. Clarke, Jr., and his wife, Edith S. Clarke, in said suit for said personal injuries and property damage, or the same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

Either party to said suit may appeal from any judgment which may be entered herein as in any other civil suit and the case may be settled, compromised or adjusted with the consent and approval of the Attorney General of Kentucky in the same way and manner as any other civil suit.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

## H. Res. 12. Resolution—Damages to Automobile.

Said resolution is as follows, viz.:

Whereas, on August 3, 1932, in Owsley County, Kentucky, and near the Lee County line, the State Highway Commission, while repairing and constructing a large culvert across the main highway negligently and carelessly left a large ditch three or four feet deep and about that wide with construction debris of rock, dirt and other materials on each side of said ditch, the said Highway left the same unguarded and unlighted and no warning signs whatsoever in the night time after having been duly warned that said unguarded and unlighted ditch would probably cause someone to be killed before daylight, and knowing same was dangerous to human life in ordinary use of said highway, and in this condition A. H. Bowman, while driving along said highway in the night time, and did not know and could not see said ditch, his new automobile was caused to run into said ditch and turned over several times and destroyed said automobile and damaged it in the sum of Six Hundred and Seventy-five (\$675.00) Dollars,

Now, in order that the said A. H. Bowman may determine the actual amount of his damages and all his rights caused by the carelessness and negligence aforesaid, if any, and the damage to said automobile, be it resolved by the General Assembly of the Commonwealth of Kentucky that:

§ 1. A. H. Bowman be and is hereby empowered and authorized to file suits against the Commonwealth of Kentucky and the State Highway Commission, or either, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission, or either, for such damage, if any there be, arising from the destruction and damage of his said automobile; and in the event any judgment is recovered or same is compromised and settled, the judgment or amount agreed on in compromise, if any, shall be paid by the Auditor of Public Accounts by a warrant drawn on the State Treasurer and paid out of the general fund.



§ 2. Said action may be brought in any county having jurisdiction of the parties and subject matter. Either party to any suit may appeal from any judgment which may be entered as in any other civil suit and the case may be settled and adjudged with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 13. Resolution authorizing D. J. Harman of Wayland, Kentucky to sue the Commonwealth of Kentucky and/or the State Highway Commission.

Said resolution is as follows, viz.:

WHEREAS, on the 25th day of October, 1937, D. J. Harman of Wayland, Kentucky, while traveling at or near Stanton, Kentucky, going towards the town of Winchester, Kentucky was injured by a large truck of the Highway Department striking his automobile and demolishing same, and

WHEREAS, his right knee was severely injured, leaving the knee stiff, and also breaking his nose, lacerating his face and forehead and lips and loosening several teeth, and

WHEREAS, the said Harman sustained serious and permanent injury by reason of the alleged carelessness and negligence of the employees of the State Highway Commission in the conduct of the State's business, therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That D. J. Harman be, and he is hereby authorized and permitted to sue the Commonwealth of Kentucky and/or the State Highway Commission, in the circuit court of the county of his residence, for such damages and injury as he may have suffered, if any, by reason of any injury received by him through the carelessness or negligence of the State Highway



Commission, its agents or employees. In the event any judgment may be recovered by the said D. J. Harman the same shall be paid by the Auditor by warrant on the Treasurer of the Commonwealth.

§ 2. Either party to said suit may appeal from any judgment rendered in this case to the Court of Appeals of Kentucky, and the case may be settled and adjusted with the consent of the Attorney General of Kentucky in the same way as any other civil suit.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 14. A Resolution, authorizing, permitting and empowering Lina Throckmorton and/or Harold Throckmorton, either or both of them, jointly or separately, to sue the Commonwealth of Kentucky and the State High Commission, (now Department of Highways), either or both.

Said resolution is as follows, viz.:

Whereas the State Highway Commission (now Department of Highways) in the construction of a highway, beginning in Mt. Olivet, Kentucky, and extending thence to the junction thereof with Highway No. 9, near Claysville, Kentucky, and now a portion of U. S. Highway No. 62, negligently and carelessly so constructed said highway as to permanently injure and damage the premises, residence, wells and cisterns of the said Lina Throckmorton and/or Harold Throckmorton and injure, damage and destroy the residence use and sale value thereof, located in the said town of Mt. Olivet, Robertson County, Kentucky, now, therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Said Lina Throckmorton and Harold Throckmorton, either or both of them be, and they or either of them are hereby authorized, permitted and empowered to sue the Com-

monwealth of Kentucky and the State Highway Commission, (now Department of Highways) either or both of them, in any sum not in excess of FIVE THOUSAND (\$5000.00) DOLLARS, for loss and damage caused and sustained by reason of the negligent construction of a portion of a highway, (now U. S. No. 62) extending upon, along and in front of the residence property of the said Lina Throckmorton and/or Harold Throckmorton in the town of Mt. Olivet, Robertson County, Kentucky.

§ 2. That the action hereby authorized and permitted may be brought in the Robertson Circuit Court, the situs of the property and shall be commenced within one year from and after the passage hereof.

§ 3. That any party to said action shall have the right of appeal from any judgment rendered by the Robertson Circuit Court, to the Court of Appeals.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 15. Resolution authorizing Luther H. Phillips, personal representative of Edward Phillips, deceased, to sue the Commonwealth of Kentucky and the State Highway Commission of Kentucky or either of them.

Said resolution is as follows, viz.:

WHEREAS, on or about the Fourth (4) day of November, One Thousand nine hundred thirty-six (1936), Edward Phillips of Greensburg, Green County, Kentucky, was drown while crossing Cumberland River on a ferry boat where State Highway number sixty-one (61) crosses said river, about one mile (1) south of Burksville, Kentucky, and while he was sitting in a truck which he had been driving and while being ferried across said river, and by reason of the carelessness and/or negligence of the persons in charge of the operation of said ferry boat and the time and place, the said truck rolled

off of said ferry boat and into the river, and the said Edward Phillips was drown.

WHEREAS, said ferry boat was at the time under the control of the State Highway Commission of Kentucky and was being operated by its agents and employees, and that by reason of the carelessness and/or negligence of the persons in charge of the operation of said ferry boat, the truck in which the said Edward Phillips was sitting was caused to roll off of said ferry boat and the said Edward Phillips lost his life.

WHEREAS, The said Edward Phillips was at the time of his death a resident of Green County, Kentucky, that he was 27 years of age, unmarried; and that his father, Luther H. Phillips, has duly qualified as the personal representative of said Edward Phillips, deceased, in the Green County Court.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Luther H. Phillips, the personal representative of Edward Phillips, deceased, be and he is hereby authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission of Kentucky or either of them, in the Circuit Court of Green County, Kentucky, the county of the residence of the said Edward Phillips at the time of his death, for such damages as the estate of the said Edward Phillips sustained by reason of his death caused by the carelessness and/or negligence of the State Highway Commission of Kentucky, its agents or employees. Said suit shall be for any amount not exceeding the sum of Ten Thousand (\$10,000.00) Dollars, and in the event any judgment is recovered by the said Luther H. Phillips as personal representative of said decedent, or same is compromised or settled by consent or approval of the Attorney General of Kentucky, the same shall be paid by the Auditor of Public Accounts of Kentucky by warrant on the State Treasurer of Kentucky and paid out of the general fund.

§ 2. Either party to said suit may appeal from any judgment which may be rendered therein as in other civil cases.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 16. Resolution authorizing the personal representative of Jasper Johnson, deceased to file and prosecute suit against the Commonwealth of Kentucky and the State Highway Commission or either of them.

Said resolution is as follows, viz.:

WHEREAS, one Robert Johnson was employed as a laborer by the State Highway Department and became physically incapacitated to perform said work and Jasper Johnson, with the consent and by agreement of the State Highway Foreman in charge of said work, was substituted for said Robert Johnson, and performed and was engaged in performing work and labor for the Commonwealth of Kentucky and the State Highway Commission, and on July 13, 1935, on State Highway Number 52 in Lee County, Kentucky, while in the course of his employment and performance of the duties thereof and while riding in a vehicle being driven by another employee of the Commonwealth of Kentucky and the State Highway Commission a collision with another vehicle occurred in which the said Jasper Johnson was thrown from said vehicle to the pavement of the State Highway and sustained injuries from which he died;

WHEREAS, through mistake and oversight of the State Highway Foreman the name of the said Jasper Johnson was not placed on the payroll and employment roll of the State Highway Department and the name of the said Jasper Johnson was not signed on the Workmen's Compensation Register and an adjustment and settlement with the estate and personal representative of the said Jasper Johnson can not there-

fore be made under the provisions of the Workmen's Compensation Law,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That the personal representative of Jasper Johnson, deceased, be and the said personal representative is hereby permitted, empowered and authorized to file and prosecute appropriate action against the Commonwealth of Kentucky and the State Highway Commission, or either, for the purpose of determining the liability of the Commonwealth of Kentucky and the State Highway Commission, or either, for such injury and death and medical, surgical, ambulance, hospital and burial expenses, if any there be; and in the event any judgment in such action is recovered by the personal representative of the said Jasper Johnson, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Either party to any suit may appeal from any judgment which may be entered therein as in other civil suit and the liability, claim and case may be settled and adjusted with and by the consent and approval of the Attorney General of Kentucky in the same way and manner as any other civil case.

§ 3. Said action may be brought in the Lee Circuit Court or any county of Kentucky having jurisdiction of the parties and subject matter. The limit of liability shall be One Hundred (\$100.00) Dollars for ambulance, medical, surgical and hospital expenses and Seventy-five (\$75.00) Dollars for burial expenses, and Four Thousand (\$4,000.00) Dollars for the death of the said Jasper Johnson, or a total of Four Thousand One Hundred Seventy-five (\$4,175.00) Dollars.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.



H. Res. 17. Resolution authorizing Kurt W. Krafft, or his personal representative if he should die within one year from the date this Act becomes effective, to sue the County of Jefferson.

Said resolution is as follows, viz.:

WHEREAS, on the third of November, one thousand nine hundred thirty-seven, (1937) Kurt W. Krafft of Anchorage, Jefferson County, Kentucky, was injured while riding in a passenger automobile which collided with a truck owned by the County of Jefferson and operated by Arthur Gellhaus, an employee of Jefferson County, engaged at that time in hauling stone for Jefferson County road construction.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Kurt W. Krafft, or his personal representative should he die within one year from the date this Act become effective, be and he is hereby authorized and permitted to sue the County of Jefferson in the Circuit Court of Jefferson County, Kentucky, for such damages as he suffered by reason of personal injuries and property damage, sustained or by reason of his death should such occur within one year from the date this act become effective, through the carelessness or negligence of Jefferson County, its agents or employees. Said suit shall be for any amount not exceeding the sum of \$10,000.00, Ten Thousand Dollars, and in the event of a recovery of judgment by the said Kurt W. Krafft, or by his personal representative in said suit, or same is compromised or settled, said judgment or sum shall be paid by the County of Jefferson, by the order of the Fiscal Court drawn on the Treasury of said County.

Either party to said suit may appeal from any judgment which may be entered therein, as in any other civil suit, and the case may be settled, adjusted or compromised as any other suit, with the consent of the County Attorney of Jefferson County.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 18. Resolution authorizing and permitting Sill Hamilton to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, on or about the 22nd day of April, 1936, Sill Hamilton of Floyd County, while crossing U. S. Highway Number 23, at Ivel, Kentucky, was run into by an automobile being driven by employees of the Commonwealth of Kentucky, and was severely, painfully and permanently injured about the hand, side, head, face and other parts of his body.

WHEREAS, it is claimed that said collision was entirely caused and brought about by the gross negligence and gross carelessness of the agents, servants and employees of the Commonwealth of Kentucky in the operation of said automobile and

WHEREAS, he sustained said serious, painful and permanent injuries because of the alleged carelessness and negligence of the said employees of the Commonwealth of Kentucky while in the discharge and conduct of the business of the Commonwealth; therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That said Sill Hamilton be and he is hereby authorized and permitted to sue the Commonwealth of Kentucky in the Circuit Court of the County of his residence, for such damages as he may have suffered, if any, by reason of any injuries received by him through the carelessness or negligence of the Commonwealth of Kentucky, its agents or employees. Said suit shall be for any amount not exceeding the sum of Five Thousand (\$5000.00) Dollars, and in the event any judgment is recovered by the said Sill Hamilton in said suit for injuries to himself or same is compromised or settled, same shall be

paid by Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 19. Resolution authorizing W. J. Hockaday to file suit against the Commonwealth of Kentucky or the State Highway Commission, or either.

Said resolution is as follows, viz.:

WHEREAS, on August 6, 1937, about eighteen miles from Georgetown, Kentucky, on U. S. 25, W. J. Hockaday's car was involved in an accident, which accident was caused by the alleged negligence of the employees and agents of the Commonwealth of Kentucky and the State Highway Commission.

WHEREAS, the road was being constructed and the said employee failed to put a light or sign to inform the public that the road was in a dangerous condition.

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That W. J. Hockaday, in his own right and name, be and he is hereby permitted and authorized to file and prosecute appropriate action against the Commonwealth of Kentucky for the purpose of determining the liability of the Commonwealth of Kentucky for injuries to his automobile, if any there be.

§ 2. Such action may be brought in any circuit court of the Commonwealth of Kentucky.

§ 3. Said suit for W. J. Hockaday shall be for any amount not exceeding the sum of Seventy-five (\$75.00) Dollars. In event judgment is recovered by said W. J. Hockaday, or compromised, or settlement is made same shall be paid to W. J. Hockaday, by the Auditor of Public Accounts by war-

rant drawn on the State Treasurer and paid out of the General Fund.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 24. Resolution authorizing Richard Cox, Frank Anderson and Earl Dacon, to sue the Commonwealth of Kentucky and Fish and Game Commission of the Commonwealth or either.

Said resolution is as follows, viz.:

WHEREAS the estate of Isaac Bernheim has purchased about 15,000 acres of mountainous land located, partly in Bullitt County and partly in Nelson County, in this Commonwealth and said land is held by said estate for the Commonwealth of Kentucky and is known as the Bernheim Foundation for the rearing and protection of wild animals and wild turkeys of all kind, and whereas the Commonwealth has, through its Fish and Game Commission, placed on said land large numbers of deer and same have been prolific and increased to a very large number, and are not confined on the above said land, but are permitted to run in large droves over land adjoining and surrounding this said fifteen thousand acres and destroy the crops of the farmers in the surrounding country, and said deer are by sections 1938a-16 and 1938a-17 and amendments thereto of Carroll's Kentucky Statutes, Baldwin's Revision, protected from being killed or chased by dogs.

WHEREAS, Richard Cox, Frank Anderson and Earl Deacon are farmers in the surrounding territory of the above said 15,000 acres of land and were such farmers during the years 1933, 1934, 1935, 1936 and 1937, and during the above said years the deer as above said have gone upon the land cultivated by Richard Cox and destroyed his crops and damaged him in the sum of \$1500.00, and have gone upon the land

cultivated by Frank Anderson during said years and destroyed his crops and damaged him in the sum of \$1000.00, and have during the same years gone upon the crops of Earl Dacon and destroyed same thereby damaging him in the sum of \$1200.00.

NOW, in order that Richard Cox, Frank Anderson and Earl Dacon and each of them may have their "Day in Court" to determine by judicial action the extent of damages, if any, sustained by them, and the liability therefor.

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Richard Cox, Frank Anderson and Earl Dacon, and each of them, in their own right and name, be and they are respectively hereby empowered and authorized to file and prosecute appropriate actions severally and respectively, against the Commonwealth of Kentucky, and the State Game and Fish Commission, or either for the purpose of determining the liability of the Commonwealth of Kentucky, and the State Game and Fish Commission, or either for such damages sustained, if any there be; and in the event any judgment in either action is recovered by said Richard Cox, Frank Anderson or Earl Dacon, or either of them, or same are compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasurer and paid out of the general fund.

§ 2. Either party to any suit may appeal from any judgment which may be entered therein as in any other civil suit and the liability, claim and case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky, in the same way and manner as any other civil case.

§ 3. Said action may be brought in Bullitt County, the county where the damage was done, in the Circuit Court of said county. The limit of liability as to Richard Cox is \$1500.00 (Fifteen Hundred Dollars); as to Frank Anderson is \$1000.00



(One Thousand Dollars) and as to Earl Dacon is \$1200.00 (Twelve Hundred Dollars).

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 25. A Resolution authorizing the personal representative of Mrs. Alda Dever, deceased, Logan Dever, and William Dever, or either of them, to sue the Commonwealth of Kentucky and/or the State Highway Commission.

Said resolution is as follows, viz.:

WHEREAS on the 31st day of July, 1937, Mrs. Alda Dever was killed, and a car belonging to Logan Dever was damaged, and serious personal injury done to said Logan Dever and also William Dever, in an accident which occurred on Highway 60 in Henderson County, Kentucky, near the Spottsville Bridge, and

WHEREAS it is claimed that said accident was brought about by the negligence and carelessness of the Commonwealth of Kentucky, and/or the State Highway Commission, through its agents, servants and employees: therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the personal representative of Mrs. Alda Dever, deceased, wife of C. W. Dever, of Larue County, Kentucky, Logan Dever and William Dever, or either of them be and they are hereby authorized to sue the Commonwealth of Kentucky and/or the State Highway Commission in the Circuit Court of Henderson County, Kentucky, for such damages as may have been suffered by the estate of said Mrs. Alda Dever, and by Logan Dever and William Dever, or either of them, by reason of the negligence of the State Highway Commission, its servants, agents or employees. Said suits shall be in a total amount not to exceed Eleven Thousand (\$11,000.00) Dol-

lars, and in the event a judgment is recovered by said parties, or either of them, or said claims are compromised or settled, same shall be paid by the Auditor of Public Accounts by warrant drawn on the State Treasury, and payable out of the General Fund.

Either party to said suit may appeal from any judgment which may be entered therein, as in any other civil case, and said cases, or either of them may be settled and adjusted with the approval of the Attorney General of Kentucky, as in any other similar action.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 26. Resolution authorizing Elmo M. Robertson, to sue the Commonwealth of Kentucky, and the State Highway Commission, or either.

Said resolution is as follows, viz.:

Whereas, on October 24, 1936, Elmo M. Robertson, was operating his buick sedan in Mercer County, Kentucky, on Highway No. 68, when it collided with a truck owned by the State Highway Commission, at the time being driven by its driver one Haley, resulting in serious injury to said buick sedan; and

Whereas, it is claimed by said Robertson that the driver of said truck was intoxicated, operated the truck in a reckless and negligent manner striking the sedan at a time when it was stopped and when the truck was on the wrong side of the highway, and that the operator of the sedan was free from any fault; and

Whereas it is claimed by said Robertson that the sedan was injured and damaged to the extent of \$500.00:

Now, therefore in order to determine by judicial action, the liability of The Commonwealth of Kentucky and of the State Highway Commission of Kentucky for the alleged damages and injury:—

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Elmo M. Robertson be, and he is hereby, authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission of Kentucky, or either, in the Mercer Circuit Court, for such damages, if any, as he may have suffered, by any wrongful injury to his buick sedan aforesaid by reason of the collision mentioned herein, and to recover such damages as he may have sustained;

That in any action so brought neither The Commonwealth of Kentucky nor the Kentucky State Highway Commission shall be permitted to plead or rely upon any Statute of Limitation, provided the action is brought within six months after this resolution becomes effective;

That in the event said Robertson shall recover any judgment against The Commonwealth or Highway Commission, it shall not exceed \$500.00 plus interest and court cost; and the defendants may appeal as in any other civil case;

That such case so brought may be settled and adjusted with the consent of the Attorney General, of Kentucky, in the same manner as any other civil case, or such official may settle the same before action brought;

That the amount of any judgment, or of any settlement so made, shall be paid by the Auditor of Public Accounts by warrant on the State Treasurer, same to be charged to the general fund.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 28. Resolution authorizing Mrs. Joe Pence to sue the Commonwealth of Kentucky and the State Highway Commission, or either of them.

Said resolution is as follows, viz.:

WHEREAS, on or about the 19th day of June, 1937, Mrs.

Joe Pence, on the Briery Road in the County of ..... , Kentucky, was injured due to the carelessness and negligence of employees of the State Highway Commission while putting in bridges, therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Mrs. Joe Pence, and she is hereby, authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission, or either of them, in the Circuit Court, the county of the residence of Mrs. Joe Pence, for damages for the loss of earning power, physical suffering, permanent injury, and for hospital and medical bills of said Mrs. Joe Pence which were brought about and caused by the negligence and carelessness of the employees of the State Highway Commission. Said suit shall be for any amount not exceeding the sum of Five Thousand (\$5,000) Dollars, and in the event any judgment is recovered by the said Mrs. Joe Pence in said suit, or same is compromised or settled, said judgment shall be paid by the Auditor of Public Accounts by warrant drawn on the state treasury and paid out of the general fund.

Either party to said suit may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 29. Resolution authorizing Joe Pence to sue the Commonwealth of Kentucky and the State Highway Commission, or either of them.

Said resolution is as follows, viz.:

WHEREAS, on or about the 19th. day of June, 1937, Joe Pence, on the Briery Road in the County of ..... ,

Kentucky, was injured due to the carelessness and negligence of employees of the State Highway Commission while putting in bridges, therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Joe Pence be, and he is hereby, authorized and permitted to sue the Commonwealth of Kentucky and the State Highway Commission, or either of them, in the ..... Circuit Court, the county of the residence of Joe Pence, for damages for the loss of earning power, physical suffering, permanent injury, and for hospital and medical bills of said Joe Pence which were brought about and caused by the negligence and carelessness of the employees of the State Highway Commission. Said suit shall be for any amount not exceeding the sum of Five Thousand (\$5,000) Dollars, and in the event any judgment is recovered by the said Joe Pence in said suit, or same is compromised or settled, said judgment shall be paid by the Auditor of Public Accounts by warrant drawn on the state treasury and paid out of the general fund.

Either party to said suit may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

H. Res. 30. Resolution authorizing the personal representative of William Anderson to sue the Commonwealth of Kentucky and the State Highway Commission or either of them.

Said resolution is as follows, viz.:

WHEREAS, on or about the 14th day of December, 1935, William Anderson, a resident of Ludlow, Kenton County,



Kentucky, received injuries while traveling on U. S. Highway No. 25, about one mile south of Bracht Station, Kentucky, from which injuries the said William Anderson died, wherein it is claimed that the said injuries and death was caused by the car in which said William Anderson was riding running into a large hole in said highway about four square feet in width and five inches in depth, causing the automobile in which he was riding to be overturned. It being further contended that the condition of the highway was caused and created by the removal of the paved portion of the highway by agents and employees of the Department of Highways and/or the Commonwealth of Kentucky, and since there were no warning signs or other indications of the defective condition of the highway, which it is contended the Commonwealth of Kentucky and/or the Department of Highways, by and through its agents and employees, knew or in the exercise of ordinary care should have known of the existence of the said defective condition of the highway, which is contended to be the proximate cause of the death of William Anderson.

*Therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the personal representative of William Anderson be and he or she is hereby authorized and permitted to sue the Commonwealth of Kentucky and the Department of Highways or either in the Kenton Circuit Court, the county in which this accident occurred for damages resulting from the wrongful death of said William Anderson, which was brought about and caused by the negligence of the employees of the Commonwealth of Kentucky and/or the Department of Highways. Said suit shall be for any amount not exceeding Twenty thousand dollars (\$20,000.00), and in the event any judgment is recover by the said personal representative in this suit for wrongful death or same is compromised or settled, said judgment, compromise, or settlement shall be paid by the Auditor of Public Accounts, drawn by warrant on the State Treasurer and paid out of the Department of Highway's fund.

Either party to said suit may appeal from any judgment which may be entered therein, as in any other civil suit, and the case may be settled and adjusted with the consent and approval of the Attorney General of Kentucky in the same way as any other civil action.

Ordered that said resolution be printed and referred to Committee on Kentucky Statutes No. 1.

A further message was received from the House announcing that on Tuesday, January 25th, 1938, by error a bill had been reported to the Senate of the following title, viz.:

H. B. 91. (For bill and title see S. J. of that date, ante.)

And that the House of Representatives requested the return of said bill.

Senator Gilbert moved that the Chief Clerk of the Senate be directed to return said bill to the House.

Said motion was agreed to.

### INTRODUCTION OF BILLS

Bills and resolutions of the following titles were introduced, ordered printed and referred, as follows, viz.:

By Senator Wesley.

S. B. 125. An Act providing for the repeal, amendment and re-enacting of Section 1550-3, Carroll's Kentucky Statutes 1936 Edition, changing the time for holding primary election from first Saturday in August to first Tuesday in June.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 1550-3, Carroll's Kentucky Statutes, 1936

Edition, be repealed, amended and re-enacted so that same when so repealed, amended and re-enacted will read as follows:

On the first Tuesday in June of each year between the hours of six o'clock a. m. and four o'clock p. m., there shall be held at the regular polling places in each election precinct in this state a primary election for the nomination of candidates by political parties as hereinafter defined, to be voted for at the next November election. The provisions of this Act shall not apply to vacancies in offices to be filled at special elections held at times other than the regular November elections. Nominations by political parties to fill vacancies at special elections to be held on days other than the regular November election shall be made in such manner as may be determined by the governing authority of such political party in the territory in which said election is to be held.

To Committee on Suffrage & Elections.

By Senator Hettinger.

S. B. 126. An Act providing that the Commonwealth of Kentucky may enter into a compact with any of the United States for mutual helpfulness in relation to persons convicted of crime or offenses who may be on probation or parole.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. The Governor of this Commonwealth is hereby authorized and directed to execute a compact on behalf of the Commonwealth of Kentucky with any of the United States legally joining therein in the form substantially as follows:

A Compact—Entered into by and among the contracting states, signatories hereto, with the consent of the Congress

of the United States of America, granted by an act entitled "An Act granting the consent of Congress to any two or more states to enter into agreements or compacts for cooperative effort and mutual assistance in the prevention of crime and for other purposes."

The contracting states solemnly agree:

(1) That it shall be competent for the duly constituted judicial and administrative authorities of a state party to this compact (herein called "sending state"), to permit any person convicted of an offense within such state and placed on probation or released on parole to reside in any other state party to this compact (herein called "receiving state"), while on probation or parole, if

(a) Such person is in fact a resident of or has his family residing within the receiving state and can obtain employment there;

(b) Though not a resident of the receiving state and not having his family residing there, the receiving state consents to such person being sent there.

Before granting such permission, opportunity shall be granted to the receiving state to investigate the home and prospective employment of such person.

A resident of the receiving state, within the meaning of this section, is one who has been an actual inhabitant of such state continuously for more than one year prior to his coming to the sending state and has not resided within the sending state more than six continuous months immediately preceding the commission of the offense for which he has been convicted.

(2) That each receiving state will assume the duties of visitation of and supervision over probationers or parolees of any sending state and in the exercise of those duties will be governed by the same standards that prevail for its own probationers and parolees.

(3) That duly accredited officers of a sending state may

at all times enter a receiving state and there apprehend and retake any person on probation or parole. For that purpose no formalities will be required other than establishing the authority of the officer and the identity of the person to be retaken. All legal requirements to obtain extradition of fugitives from justice are hereby expressly waived on the part of states party hereto, as to such persons. The decision of the sending state to retake a person on probation or parole shall be conclusive upon and not reviewable within the receiving state: Provided, however, that if at the time when a state seeks to retake a probationer or parolee there should be pending against him within the receiving state any criminal charge, or he should be suspected of having committed within such a criminal offense, he shall not be retaken without the consent of the receiving state until discharged from prosecution or from imprisonment for such offense.

(4) That the duly accredited officers of the sending state will be permitted to transport prisoners being retaken through any and all states parties to this compact, without interference.

(5) That the governor of each state may designate an officer who, acting jointly with like officers of other contracting states, if and when appointed, shall promulgate such rules and regulations as may be deemed necessary to more effectively carry out the terms of this compact.

(6) That this compact shall become operative immediately upon its execution by any state as between it and any other state or states so executing. When executed it shall have the full force and effect of law within such state, the form of execution to be in accordance with the laws of the executing state.

(7) That this compact shall continue in force and remain binding upon each executing state until renounced by it. The duties and obligations hereunder of a renouncing state shall continue as to parolees or probationers residing therein at the time of withdrawal until retaken or finally discharged



by the sending state. Renunciation of this compact shall be by the same authority which executed it, by sending six months' notice, in writing, of its intention to withdraw from the compact to the other states party hereto.

§ 2. If any section, sentence, subdivision, or clause of this Act is for any reason held invalid or to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Act.

§ 3. Whereas an emergency exists for the immediate taking effect of this Act, the same shall become effective immediately upon its passage.

§ 4. This Act may be cited as "The Uniform Act for Out-of-State Parolee Supervision".

To Committee on Kentucky Statutes No. 1.

By Senator Hettinger.

S. B. 127. An Act to make uniform the law on fresh pursuit and authorizing this Commonwealth to cooperate with other states therein.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Any member of a duly organized state, county, or municipal peace unit of another state of the United States who enters this state in fresh pursuit, and continues within this state in such fresh pursuit, of a person in order to arrest him on the ground that he is believed to have committed a felony in such other state, shall have the same authority to arrest and hold such person in custody, as has any member of any duly organized state, county, or municipal peace unit of this state, to arrest and hold in custody a person on the ground that he is believed to have committed a felony in this state.

§ 2. If an arrest is made in this state by an officer of another state in accordance with the provisions of Section 1 of this Act, he shall without unnecessary delay take the person arrested before a magistrate of the county in which the arrest was made who shall conduct a hearing for the purpose of determining the lawfulness of the arrest. If the magistrate determines that the arrest was lawful he shall commit the person arrested to await for a reasonable time the issuance of an extradition warrant by the governor of this state. If the magistrate determines that the arrest was unlawful he shall discharge the person arrested.

§ 3. Section 1 of this Act shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful.

§ 4. For the purpose of this Act the word "state" shall include the District of Columbia.

§ 5. The term "fresh pursuit", as used in this Act, shall include fresh pursuit as defined by the common law, and also the pursuit of a person who has committed a felony or who is reasonably suspected of having committed a felony. It shall also include the pursuit of a person suspected of having committed a supposed felony, though no felony has actually been committed, if there is reasonable ground for believing that a felony has been committed. Fresh pursuit as used herein shall not necessarily imply instant pursuit, but pursuit without unreasonable delay.

§ 6. Upon the passage and approval by the governor of this Act it shall be the duty of the Secretary of State (or other officer) to certify a copy of this Act to the executive department of each of the states of the United States.

§ 7. If any part of this Act is for any reason declared void, it is declared to be the intent of this Act that such invalidity shall not affect the validity of the remaining portions of this Act.

§ 8. This Act may be cited as "The Uniform Act on Fresh Pursuit."

To Committee on Kentucky Statutes No. 1.

By Senator Attkisson.

S. B. 128. Uniform Act to secure the attendance of witnesses from without a state in criminal proceedings.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. *Definitions.* "Witness," as used in this Act, shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution, or proceeding.

The word "state" shall include any territory of the United States and the District of Columbia.

The word "summons" shall include a subpoena, order, or other notice requiring the appearance of a witness.

§ 2. *Summoning Witness in This State to Testify in Another State.* If a judge of a court of record in any state, which by its laws has made provision for commanding persons within that state to attend and testify in this state, certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of such certificate to any judge of a court of record in the county in which such person is, such judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing.

If at a hearing the judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the

prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence (and of any other state through which the witness may be required to pass by ordinary course of travel), will give him protection from arrest and the service of civil and criminal process, he shall issue a summons, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence, at a time and place specified in the summons. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein.

If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state, such judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability, may, in lieu of issuing subpoena or summons, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state.

If the witness, who is summoned as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending and five dollars for each day that he is required to travel and attend as a witness, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

§ 3. *Witness from Another State Summoned to Testify in This State.* If a person in any state, which by its laws has

made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. Said certificate may include a recommendation that the witness be taken into immediate custody and delivered to an officer of this state to assure his attendance in this state. This certificate shall be presented to a judge of a court of record in the county in which the witness is found.

If the witness is summoned to attend and testify in this state he shall be tendered the sum of ten cents a mile for each mile by the ordinary traveled route to and from the court where the prosecution is pending, and five dollars for each day that he is required to travel and attend as a witness. A witness who has appeared in accordance with the provisions of the summons shall not be required to remain within this state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness, after coming into this state, fails without good cause to attend and testify as directed in the summons, he shall be punished in the manner provided for the punishment of any witness who disobeys a summons issued from a court of record in this state.

§ 4. *Exemption from Arrest and Service of Process.* If a person comes into this state in obedience to a summons directing him to attend and testify in this state he shall not while in this state pursuant to such summons be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons.

If a person passes through this state while going to another state in obedience to a summons to attend and testify



in that state or while returning therefrom, he shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the summons.

§ 5. *Uniformity of Interpretation.* This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it.

§ 6. *Short Title.* This act may be cited as “Uniform Act to Secure the Attendance of Witnesses from Without a State in Criminal Proceedings.”

§ 7. *Inconsistent Laws Repealed.* All acts or parts of acts inconsistent with this Act are hereby repealed.

§ 8. *Constitutionality.* If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

To Committee on Kentucky Statutes No. 1.

By Senator Attkisson.

S. B. 129. An Act to make uniform the procedure on interstate extradition.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. *Definitions.* Where appearing in this act, the term “governor” includes any person performing the functions of governor by authority of this state. The term “executive authority” includes the governor, and any person performing the functions of governor in a state other than this state. The term “state”, referring to a state other than this state, in-

cludes any other state or territory, organized or unorganized, of the United States of America.

§ 2. *Fugitives from Justice; Duty of Governor.* Subject to the provisions of this act, the provisions of the Constitution of the United States controlling, and any and all acts of Congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

§ 3. *Form of Demand.* No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging, except in the demanding under Section 6, that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, and accompanied by a copy of an indictment found or by information supported by affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereupon; or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation, or parole. The indictment, information, or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of indictment, information, affidavit, judgment of conviction, or sentence must be authenticated by the executive authority making the demand.

§ 4. *Governor May Investigate Case.* When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney-

general or any prosecuting officer in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

§ 5. *Extradition of Persons Imprisoned or Awaiting Trial in Another State or Who Have Left the Demanding State under Compulsion.* When it is designed to have returned to this state a person charged in this state with a crime, and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of such proceedings or his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

The governor of this state may also surrender on demand of the executive authority of any other state any person in this state who is charged, in the manner provided in Section 23 of this Act, with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

§ 6. *Extradition of Persons Not Present in Demanding State at Time of Commission of Crime.* The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in Section 3 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, and the provisions of this Act not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom.

§ 7. *Issue of Governor's Warrant of Arrest; Its Recitals.* If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall

be sealed with the state seal, and be directed to any peace officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

§ 8. *Manner and Place of Execution.* Such warrant shall authorize the peace officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all peace officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this Act to the duly authorized agent of the demanding state.

§ 9. *Authority of Arresting Officer.* Every such peace officer or other person empowered to make arrest, shall have the same authority, in arresting the accused, to command assistance therein, as peace officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

§ 10. *Right of Accused Person; Application for Writ of Habeas Corpus.* No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the judge of such court of record shall fix a reasonable time to be allowed him within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the prosecuting officer of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

§ 11. *Penalty for Noncompliance with Preceding Section.* Any officer who shall deliver to the agent for extradition of



the demanding state a person in his custody under the governor's warrant, in willful disobedience to the last section, shall be guilty of a misdemeanor and, on conviction, shall be fined (not more than \$1,000.00 or be imprisoned not more than six months, or both).

§ 12. *Confinement in Jail when Necessary.* The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered, may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person being chargeable with the expense of keeping.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping; provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state. Such prisoner shall not be entitled to demand a new requisition while in this state.

§ 13. *Arrest Prior to Requisition.* Whenever any person within this state shall be charged on the oath of any credible person before any judge or magistrate of this state with the commission of any crime in any other state and, except in



cases arising under Section 6 of this Act, with having fled from justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation, or parole, or whenever complaint shall have been made before any judge or magistrate in this state setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such state with the commission of the crime, and, except in cases arising under Section 6 of this Act, has fled from Justice, or with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation, or parole, and is believed to be in this state, the judge or magistrate shall issue a warrant directed to any peace officer commanding him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other judge, magistrate, or court who or which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to the warrant.

§ 14. *Arrest without a Warrant.* The arrest of a person may be lawfully made also by any peace officer or a private person without a warrant, upon reasonable information that the accused stands charged in the courts of a state with a crime punishable by death or imprisonment for a term exceeding one year, but when so arrested the accused must be taken before a judge or magistrate with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and thereafter his answer shall be heard as if he had been arrested on a warrant.

§ 15. *Commitment to Await Requisition; Bail.* If from the examination before the judge or magistrate it appears that the person held is the person charged with having committed

the crime alleged and, except in cases arising under Section 6 of this Act, that he has fled from justice, the judge or magistrate must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused give bail as provided in the next section, or until he shall be legally discharged.

§ 16. *Bail; In What Cases; Conditions of Bond.* Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a judge or magistrate in this state may admit the person arrested to bail by bond, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond, and for his surrender, to be arrested upon the warrant of the governor of this state.

§ 17. *Extension of Time of Commitment, Adjournment.* If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant or bond, a judge or magistrate may discharge him or may recommit him for a further period not to exceed sixty days, or a judge or magistrate judge may again take bail for his appearance and surrender, as provided in Section 16 of this Act, but within a period not to exceed sixty days after the date of such new bond.

§ 18. *Forfeiture of Bail.* If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond, the judge or magistrate, by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond in the name of the state as in the case of other bonds given by the accused in criminal proceedings within this state.

§ 19. *Persons under Criminal Prosecution in This State*

*at Time of Requisition.* If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, either may surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

§ 20. *Guilt or Innocence of Accused, When Inquired Into.* The guilt or innocence of the accused as to the crime of which he is charged may not be inquired into by the governor or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

§ 21. *Governor May Recall Warrant or Issue Alias.* The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

§ 22. *Fugitives from This State; Duty of Governors.* Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation, or parole in this state, from the executive authority of any other state, or from the chief justice or an associate justice of the Supreme Court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state, to some agent, commanding him to receive the person so charged if delivered to him and convey him to the proper officer of the county in this state in which the offense was committed.

§ 23. *Application for Issuance of Requisition; By Whom Made; Contents.* (1) When the return to this state of a person charged with crime in this state is required, the prosecuting attorney shall present to the governor his written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him, the ap-

proximate time, place, and circumstances of its commission, the state in which he is believed to be, including the location of the accused therein, at the time the application is made and certifying that, in the opinion of the said prosecuting attorney, the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim.

(2) When the return to this state is required of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his bail, probation, or parole, the prosecuting attorney of the county in which the offense was committed, the parole board, or the warden of the institution or sheriff of the county, from which escape was made, shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he was convicted, the circumstances of his escape from confinement or of the breach of the terms of his bail, probation, or parole, the state in which he is believed to be, including the location of the person therein at the time application is made.

(3) The application shall be verified by affidavit, shall be executed in duplicate, and shall be accompanied by two certified copies of the indictment returned, or information and affidavit filed, or of the complaint made to the judge or magistrate, stating the offense with which the accused is charged, or of the judgment of conviction, or of the sentence. The prosecuting officer, parole board, warden, or sheriff may also attach such further affidavits and other documents in duplicate as he shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the indictment, complaint, information, and affidavits, or of the judgment of conviction, or of the sentence shall be filed in the office (of the secretary of state) to remain



on record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

§ 24. *Immunity from Service of Process in Certain Civil Actions.* A person brought into this state by, or after waiver of, extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceedings to answer which he is being or has been returned, until he has been convicted in the criminal proceeding, or, if acquitted, until he has had reasonable opportunity to return to the state from which he was extradited.

§ 25. *Written Waiver of Extradition Proceedings.* Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement or broken the terms of his bail, probation, or parole may waive the issuance and service of the warrant provided for in Sections 7 and 8 of this Act and all other procedure incidental to extradition proceedings, by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that he consents to return to the demanding state; provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in Section 10 of this Act.

If and when such consent has been duly executed, it shall forthwith be forwarded to the office of the governor of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent; provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be



deemed to be an exclusive procedure or to limit the powers, rights, or duties of the officers of the demanding state or of this state.

§ 26. *Nonwaiver by This State.* Nothing in this Act contained shall be deemed to constitute a waiver by this state of its right, power, or privilege to try such demanded person for crime committed within this state, or of its right, power, or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence, or punishment for any crime committed within this state, nor shall any proceedings had under this Act which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges, or jurisdiction in any way whatsoever.

§ 27. *No Right of Asylum. No Immunity from Other Criminal Prosecutions While in This State.* After a person has been brought back to this state by, or after waiver of, extradition proceedings, he may be tried in this state for other crimes which he may be charged with having committed here as well as that specified in the requisition for his extradition.

§ 28. *Interpretation.* The provisions of this Act shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

§ 29. *Constitutionality.* If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

§ 30. *Repeal.* All acts and parts of acts inconsistent with the provisions of this Act and not expressly repealed herein are hereby repealed.

§ 31. *Short Title.* This Act may be cited as the "Uniform Criminal Extradition Act".

To Committee on Kentucky Statutes No. 1.

By Senator Gibson.

S. B. 130. An Act relating to the production of oil and gas.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. The owner or operator of any well or wells which produce oil or gas from any of the producing strata or horizons, shall be permitted to allow such wells to remain open for the purpose of introducing air, gas, water or other liquid pressure into and upon such producing strata for the purpose of recovering the oil contained therein; provided that the introduction of such pressure of air, gas, water or other liquid into such strata shall be through casing or tubing which shall be so anchored and packed that no other oil bearing sand or producing stratum above or below such producing stratum or strata, into which such pressure shall be so introduced, shall be affected thereby.

§ 2. All laws or parts of laws in conflict with this Act are hereby repealed to the extent of such conflict.

The above is a correct carbon.

Lee Gibson.

To Committee on Mines & Mining.

By Senator Buckley & Senator Barbour.

S. B. 131. An Act to except and exempt peace officers appointed by the municipal authorities of cities of the first and second classes from the provisions of an Act entitled, "An Act relating to peace officers and prohibiting compensation of sheriffs, deputy sheriffs, constables, deputy constables, patrols and other peace officers and deputy peace officers

by private persons, firms or corporations; providing for the removal of such officers so privately compensated, and for the removal of sheriffs, constables and peace officers for neglect of duty in failing to remove deputies so privately compensated; providing for the appointment and compensation of special local peace officers; and providing penalties for the violation of this act," approved by the Governor on January 24, 1938, and also from the provisions of an Act entitled, "An Act relating to the qualification of non-elective peace officers, removal of persons disqualified, providing penalties for the violation of this Act and repealing inconsistent Acts, approved by the Governor on January 24, 1938.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That peace officers appointed by municipal authorities of cities of the first and second classes shall be excepted and exempted from the provisions of an Act entitled:

"An Act relating to peace officers and prohibiting compensation of sheriffs, deputy sheriffs, constables, deputy constables, patrols and other peace officers and deputy peace officers by private persons, firms or corporations; providing for the removal of such officers so privately compensated, and for the removal of sheriffs, constables and peace officers for neglect of duty in failing to remove deputies so privately compensated; providing for the appointment and compensation of special local peace officers; and providing penalties for the violation of this Act," approved by the Governor on January 24, 1938, and also from the provisions of an Act entitled:

"An Act relating to the qualification of non-elective peace officers, removal of persons disqualified, providing penalties for the violation of this Act and repealing inconsistent Acts, approved by the Governor on January 24, 1938."

To Committee on Judiciary.

By Senator Ervine Turner.

S. Res. 36. A Joint Resolution appropriating \$50.00 from the General Fund of the State of Kentucky for the purpose of paying Ben C. Sewell, Jackson County, for services and expenses as special elisor to summon a venire of fifty men from Clark County for criminal jury service in the Breathitt Circuit Court.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky that:*

WHEREAS, Ben C. Sewell was appointed as special elisor by the Breathitt Circuit Court at its regular October term, 1934, to go from Jackson to Clark County, Kentucky, a distance of eighty miles (80) for the purpose of, and did on the eighteenth (18th) day of November, 1934, summons a venire of fifty (50) men to render jury service in the Breathitt Circuit Court.

WHEREAS, the said Ben C. Sewell, in performing his services as aforesaid, did labor for the Commonwealth of Kentucky one (1) night and one (1) day and one-half ( $\frac{1}{2}$ ) day and paid all his necessary expenses in so doing, which labor and expenses was reasonably worth fifty (50) dollars to the State.

NOW, Be It Resolved that there be and is hereby appropriated out of the General Fund of the State of Kentucky the sum of fifty (50) dollars for the purpose of paying Ben C. Sewell for services and expenses as special elisor of the Breathitt Circuit Court in going to Clark County, Kentucky, and returning and summoning a venire of fifty (50) men for jury service in the said court on a murder trial, the case styled Commonwealth of Kentucky versus Hollan, Dunn, etc., and the Auditor of the State is authorized and directed to draw

a warrant on said fund payable to the said Ben C. Sewell for the sum of fifty (50) dollars for his services and expenses aforesaid.

To Committee on Kentucky Statutes No. 1.

By Senator Ervine Turner.

S. Res. 37. A Joint Resolution appropriating from the General Fund of the State of Kentucky \$122.08 for the payment of two claims ordered and issued by the Breathitt Circuit Court.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky that:*

There be and is hereby appropriated from the General Fund of the State of Kentucky the sum of one hundred twenty-two dollars and eight cents (\$122.08) for the purpose of paying A. D. Carpenter assignee of the following State claims ordered and issued by the Breathitt Circuit Court:

Bowman, Bedford, \$1.00; Bush, Mose, \$1.00; Bowling, George Ed, \$2.00; Campbell, Uleys, \$2.00; Chandler, Henry, \$2.00; Davidson, Beech, \$1.00; Deaton, Luther, \$2.00; Deaton, Virgil, \$1.00; Franks, Pearlie, \$17.00; Fugate, Walter, \$2.00; Gearett, Everett, \$3.00; Goff, James, \$1.00; Gross, Eliza, \$5.60; Hollon, Hazel, \$4.24; Hensley, Flossie, \$4.04; Herald, Sq. Brack, \$1.00; Ingram, James, \$5.20; King, Cora, \$1.00; King, Eddie, \$1.00; King, Sherman, \$1.00; Landrum, Letha, \$2.00; Little, Floyd, \$2.00; Lovins, Charlie, \$1.00; McDaniel, Shady, \$3.00; Oaks, Jess, \$1.00; Osborne, Enoch, \$2.00; Salyer, Charlie, \$9.12; Salyer, Boyd, \$9.12; Smith, C. C., \$9.12; Smith, Arch, \$1.00; South, America, \$2.00; Strong, Pete, \$3.00; Trent, Harry, \$3.00; Turner, Harvey, \$2.00; Vires, John D., \$2.00; Wilson, Sam, \$1.00; Young, Cletus, \$8.64; Goff, J. T., \$3.00.



That the State Auditor be authorized and directed to draw warrants for said amounts payable to the said A. D. Carpenter from said Fund.

To Committee on Kentucky Statutes No. 1.

## REPORTS OF COMMITTEES

Senator McDonald, Chairman of the Committee on Courts and Legal Procedure, to which same had been previously referred, reported a bill entitled, viz.:

S. B. 71. An Act to amend Section 965, Carroll's Kentucky Statutes, 1936 Edition, and being the time of holding court in the 24th Judicial District composed of Johnson and Martin Counties and fixing the time therefor, relating to Circuit Courts.

With the expression of opinion that same should pass.

Senator Tackett, Chairman of the Committee on Judiciary, to which same had been previously referred, reported a bill entitled, viz.:

S. B. 53. An Act to repeal Section 574 of the Code of Practice in Civil Cases, Carroll's Civil Code of Practice, Baldwin's 1932 Edition, relating to taking depositions upon interrogatories.

With the expression of opinion that same should pass.

Senator Gibson, Chairman of the Committee on Banks & Trust Companies, to which same had been previously referred, reported bills entitled, viz.:

S. B. 81. An Act to repeal, amend and re-enact Sections 165a-15 and 586 of Carroll's Kentucky Statutes, 1936 Edition,

relating to the impairment of a bank's capital, duty of bank and Director of the Division of Banking, reduction of capital and how impairment shall be made good.

With the expression of opinion that same should pass.

S. B. 78. An Act to amend and re-enact Section 165a-9 of Carroll's Kentucky Statutes, 1936 Edition, relating to fees for examination of banks.

With the expression of opinion that same should pass.

S. B. 82. An Act pertaining to banking and to amend and re-enact Section 595 Carroll's Kentucky Statutes, 1930 Edition, as amended by Chapter 1 of the Acts of the Extraordinary Session of the General Assembly of the Commonwealth of Kentucky of 1933, and as amended by Chapter 12 of the Acts of the Regular Session of the General Assembly of the Commonwealth of Kentucky of 1936, so as to provide to the holders of non-assessable preferred capital stock issued by a bank or trust company or combined bank and trust company exemption from assessment to restore impairment of capital and rights with respect to dividends, voting and conversion rights, control of management and preference in the event of retirement of said stock, or liquidation of the corporation, and prescribing a basis for determination of whether or not there exists an impairment of the capital of a bank or trust company or combined bank and trust company which has issued such stock.

With the expression of opinion that same should pass.

Whereupon, said bills were severally read at length for the first time and

Ordered placed in the Calendar.

Senator Tackett, Chairman of the Committee on Judiciary, to which same had been previously referred, reported bills of the following titles, viz;

S. B. 85. An Act entitled An Act to amend Section 606 of the Civil Code of Practice.

S. B. 62. An Act to amend and re-enact Sections 317, 326, 327, 328 of the Civil Code of Practice so as to permit the finding of special verdicts by juries in addition to general or separate-general verdicts.

S. B. 49. An Act to repeal and re-enact Section 122 of the Criminal Code of Practice, Baldwin's Revision of 1932, relating to requisites and correction of an indictment.

S. B. 88. An Act to repeal, amend and re-enact Section 1093, Carroll's Kentucky Statutes, 1936 Edition.

With the expression of opinion that said last named bills should not pass.

No motions having been made to advance said bills to a reading, the report of the committee to the contrary notwithstanding, and no further action having been taken by the Senate, said bills were each and severally rejected.

#### REPORT OF ENROLLMENT COMMITTEE

Senator Dawson, of the Committee on Enrollment, reported that said Committee had examined and found to be correctly enrolled a resolution of the following title, viz:

H. Res. 4. A resolution providing for the purchase of "The Legislative Digest" adopted at the regular session of the Legislature of 1912 and each succeeding session since that

date as the official publication for the General Assembly, providing for the distribution thereof and for payment therefor.

Whereupon, all other business was suspended and said resolution was read at length and compared in open session and found to be correctly enrolled; and, thereupon, the President of the Senate, in open session, and in the presence of the Senate, affixed his signature thereto.

Ordered that the Enrolling Clerk of the Senate deliver said resolution to the Enrolling Clerk of the House.

### CALENDAR

The Senate took up for consideration from the Calendar bills of the following titles, viz:

S. B. 95. An Act amending and re-enacting Section 2242 of Carroll's Kentucky Statutes, 1936 Revision.

H. B. 92. An Act relating to the transfer of school districts or parts of school districts.

S. B. 56. An Act to repeal and re-enact Section 2043-12, Carroll's Kentucky Statutes, 1930 Edition, Supplement 1933, the same being Section 12 of Chapter 68 of the Acts of 1930, repealed, amended, and re-enacted by Chapter 54 of the Acts of 1936, and entitled, "An Act concerning the manner of commitment of incompetent veterans of the World War who are beneficiaries of World War Veterans' Act as amended; and regulating the appointment, defining the duties and governing the actions of guardians and committees for beneficiaries of the World War Veterans' Act, as amended, and the World War Adjusted Compensation Act, as amended," and declaring an emergency to exist.

S. B. 83. On Act providing that banks incorporated

under the laws of any other State shall not do any business in this Commonwealth, except to lend money; and providing for the repeal of all laws and parts of laws in conflict with this Act.

S. B. 80. An Act to amend and re-enact Section 583 of Carroll's Kentucky Statutes, 1936 Edition, relating to the indebtedness or obligation of a person, company or firm to a bank, the highest amount permitted, certain bills of exchange not included.

S. B. 79. An Act to amend and re-enact Section 610 of Carroll's Kentucky Statutes, 1936 Edition, relating to the indebtedness or obligation of a person, company or firm to a trust company; and providing for a change in the maximum amount permitted.

S. B. 47. An Act to amend and re-enact Section 514 of the Civil Code of Practice, relating to the reversal of judgments by the Court of Appeals.

S. B. 34. An Act to amend Section 2741d-2, Carroll's Kentucky Statutes, 1936 Edition, relating to libraries, boards of trustees, powers members, appointments and term, qualifications and expenditures not to exceed net income and adding to said section auditoriums and club rooms and other public accommodations which have been or may be constructed in connection with public libraries and providing for a board of trustees and giving said board of trustees the power to issue bonds and notes not exceeding ten thousand dollars and providing for the payment of such indebtedness, limiting the amount of said indebtedness which the board may incur for equipping said buildings.

S. B. 90. An Act to amend "An Act authorizing the establishment of free public libraries in cities of the Second



and Third Classes," which was enacted at the regular session of the General Assembly of the Commonwealth of Kentucky held in the year 1902, and which was approved March 21, 1902, and which appears as Chapter 70 of the Acts of the General Assembly passed at said regular session of the year 1902, at pages 155 to 158 thereof, and which also appears as Section 3210b-1 of Carroll's Kentucky Statutes, Baldwin's Revision, published in the year 1936, as said Act may have been heretofore amended; and for other purposes.

S. B. 38. An Act to amend and re-enact Section 913-1 Kentucky Statutes, 1936 Edition.

S. B. 2. An Act creating and establishing as a part of the primary system of highways of the Commonwealth of Kentucky, a road from the mouth of Abner Fork of Left Beaver Creek, in Floyd County, Kentucky to mouth of Marshall's Branch of Long Fork Creek in Pike County, Kentucky.

S. B. 16. An Act adding to the primary system of public roads of the Commonwealth of Kentucky and making parts thereof of all duly recognized roads and highways in the Commonwealth of Kentucky.

S. B. 20. An Act establishing as part of the Primary System of State Highways a road known as the SABEN'S MILL ROAD in Barren County.

S. B. 21. An Act establishing as part of the Primary System of State Highways certain roads near the City of Glasgow in Barren County.

S. B. 22. An Act establishing as part of the Primary System of State Highways certain roads near the City of Glasgow in Barren County.

S. B. 23. An Act establishing as part of the Primary System of State Highways a road known as the MARCUM'S MILL ROAD in Metcalfe County.

S. B. 91. An Act creating and establishing as a part of the Primary System of Highways in the Commonwealth of Kentucky a road in Pulaski County, beginning at Elihu running through Cabin Hollow and Northfield to the old Coal Bank road at Jugornot.

Senator Buckley moved that the Constitutional provision as to the second reading at length of said bills be dispensed with and same be read for the second time by their titles only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the second reading at length of said bills having been dispensed with, said bills were each and severally read for the second time by their titles only and

Ordered placed in the Orders of the Day.

#### ORDERS OF THE DAY

The Senate took up for consideration from the Orders of the Day bills entitled, viz:

S. B. 57. An Act to authorize fiduciaries to invest trust funds in real estate; to authorize a trust company or a bank, empowered to act as a fiduciary under the laws of the State of Kentucky, to establish a common trust fund under a written plan to be approved by the Kentucky State banking authority; to authorize the amendment or modification of any such plan with the approval of the Kentucky State banking authority; and to authorize such trust company or bank to

invest trust funds in its hands in shares or participation certificates issued against such common trust fund.

S. B. 58. An Act to permit the transfer of assets of a bank to another bank, in case of emergency, by the board of directors with the consent of the Director of the Division of Banking, providing for the publication of notice of such transfer; providing for the payment of fair cash value to aggrieved shareholder, and the time and manner of objection of such aggrieved shareholder; and providing for the repeal of all laws and parts of laws in conflict with this Act.

S. B. 60. An Act relating to the compensation of trustees and fiduciaries, by adding after Section 4711 Kentucky Statutes, Carroll's Edition 1930, as amended, a new provision relating to such compensation.

Senator Gilbert moved that consideration of said bills be deferred and same be allowed to retain their places in the Orders of the Day.

Said motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz:

S. B. 46. An Act creating the Kentucky State Fair Board; providing for its membership, their compensation and expenses, and prescribing its power and duties; providing for liens on property of exhibitors and concessionaires to secure indebtedness due from them to said Board and for the enforcement of such liens.

Senator Sugg moved that consideration of said bill be made a special order of business for the hour of one o'clock, p. m., Tuesday, February 1st, 1938.

Said motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz:

S. B. 64. An Act providing for monthly advancements to the County Sheriffs in counties containing a population of 75,000 or more; providing for the manner of paying said advancements and accounting for same; and declaring an emergency.

Said bill reads as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

In counties containing a population of 75,000 or more, the County Sheriff may be entitled to receive an advancement of not in excess of \$8,000.00 per month to defray necessary officials' expenses and to apply to the payment of the salaries of himself and his deputies and assistants. The Commissioner of Finance shall, on the first day of each calendar month, determine the necessary amount that may be advanced to the County Sheriff, which amount shall not be in excess of one-twelfth of the total fees collected by the Sheriff's office for the preceding year and may, by the approval of the Commissioner of Finance, be for a less amount and in any event shall not exceed \$8,000.00 per month. When approved by the Commissioner of Finance, a warrant shall be drawn on the Treasury in favor of such County Sheriff for such advancement. At the end of each calendar year the sum of such advancements shall be deducted from the part of the total of fees and commission paid into the State Treasury by such County Sheriffs, pursuant to Section 106 of the Constitution of the Commonwealth of Kentucky, which is available for use for the payment of the salaries of the Sheriff, his deputies and assistants, and his necessary office expenses. Should the County Sheriff in any such County die, resign, or be removed

from office, or should the office of County Sheriff in such County for any cause become vacant, the sums advanced hereunder for purposes aforesaid shall be charged against that part of the fees and commissions of the office of Sheriff of such County which have been, or shall be, paid into the State Treasury during the calendar year in which the said advancements have been made, and which such part is available for payment out of the State Treasury for the salaries of the Sheriff and his deputies and assistants, and necessary expenses of his office.

In the event the total of fees and commissions paid into the State Treasury by such County Sheriffs for any calendar year are insufficient to match the amount of advancements made to such County Sheriff, the County Sheriff and/or his official bond shall be liable to the Commonwealth for any excess of advancements over the total of fees and commissions paid into the State Treasury.

Whereas, it is deemed important by the General Assembly that the advancements hereinabove provided for be made as soon as is possible to the Sheriffs of Counties containing a population of 75,000, or more, so that such Sheriffs may properly conduct their offices, an emergency is hereby declared to exist, and this ACT shall become effective immediately upon its approval by the Governor.

Senator J. Lee Moore moved the Previous Question.

Whereupon, the President of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.



Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz:

Those who voted in the affirmative were—

Wm. R. Attkisson	John M. Hall	Paul L. Sidebottom
Aubrey Barbour	J. Joseph Hettinger	John A. Sugg, Jr.
Paul M. Basham	H. Watt Hillman	Jos. P. Tackett
H. Stanley Blake	Wm. H. Jones, Jr.	J. E. Trager
Ollie J. Bowen	Leo King	Ervine Turner
Leer Buckley	Stanley B. Mayer	Thomas O. Turner
Dr. D. H. Bush	Strother Melton	E. T. Wesley
Waller A. Crockett	E. C. Moore	Otis White
Edwin C. Dawson	J. Lee Moore	O. C. Whitfield
W. C. Farmer	Ray B. Moss	B. M. Williams
Lee Gibson	James C. Rogers	J. E. Wise
Ralph Gilbert	Ira W. See	J. M. Wolfinbarger

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Resolved that the title thereof be as aforesaid.

Senator Mayer moved that the vote by which said bill was passed be reconsidered and said motion lie on the table.

Said last named motion was agreed to.

Senator Mayer moved that the rules be suspended and the Clerk of the Senate be directed to report the action of the Senate to the House.

Said motion was agreed to by a majority of the members elected.

Senator Gilbert moved that the Senate do now recess until two o'clock, p. m.

Said motion was agreed to.

And then the Senate recessed.

### AFTERNOON SESSION

The appointed hour having arrived, the President of the Senate resumed the Chair and called the Senate to order.

Senator Gilbert moved that the rules be suspended and the privilege of the floor be extended to Dr. William Price and Mr. Birdsell of Washington, D. C.

Said motion was unanimously agreed to.

Senator Gilbert moved that the Senate do now recess for thirty minutes.

Said motion was agreed to.

And then the Senate recessed.

At the expiration of the appointed time, the President of the Senate resumed the Chair and called the Senate to order.

### REPORT OF ENROLLMENT COMMITTEE

Senator Dawson of the Committee on Enrollment reported that said Committee had examined and found to be correctly enrolled a resolution of the following title, viz:

H. Res. 1. Resolution appropriating the sum of \$750.00 for a contingent fund for the Clerk of the Senate, and appropriating the sum of \$750.00 for a contingent fund for the Clerk of the House.

Whereupon, all other business was suspended and said resolution was read at length and compared in open session and found to be correctly enrolled; and, thereupon, the President of the Senate, in open session, and in the presence of the Senate, affixed his signature thereto.

Ordered that the Enrolling Clerk of the Senate deliver said resolution to the Enrolling Clerk of the House.

Senator Rogers moved that the rules be suspended for the purpose of allowing committees to report.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Rogers, Chairman of the Committee on Education, to which same had been previously referred, reported bills of the following titles, viz:

H. B. 11. An Act to amend and re-enact Chapter 65, Article 5, Section 17 of the Acts of the General Assembly of the Commonwealth of Kentucky enacted at its 1934 Regular Session and effective June 14, 1934. Said act relating to the qualifications of board members, and being edited as Section 4399-22, Baldwin's Kentucky Statutes, 1936 Edition.

S. B. 11. An Act requiring the operators of all vehicles to stop before passing a school bus upon a public highway which shall be stopped for the purpose of receiving or discharging passengers and providing penalty for violation.

With Committee amendment thereto.

With the expression of opinion that each of said bills should pass.

Whereupon, each of said bills were read at length for the first time and

Ordered placed in the Calendar.

### HOUSE MESSAGE

A message was received from the House of Representatives announcing that they had adopted a resolution which originated in that body of the following title, viz:

H. Res. 43. Concurrent Resolution relating to sine die adjournment.

Senator Gilbert moved that the rules be suspended for the purpose of immediate consideration of said resolution.

Said motion was agreed to by a majority of the members elected.

Said resolution reads as follows, viz:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That when the House of Representatives and the Senate of the Commonwealth of Kentucky adjourn on the first day of March 1938, that they do adjourn sine die.

Senator J. Lee Moore moved that the Senate do now concur in the aforesaid resolution as proposed and adopted by the House.

Said motion was agreed to.

Thereupon, said resolution was concurred in and adopted.

Senator Gilbert moved that the Senate do now adjourn.

Said motion was agreed to.

And then the Senate adjourned.

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### THURSDAY, JANUARY 27, 1938

The Senate convened and was called to order by Senator Dawson, President Pro Tem of the Senate, presiding in the absence of the Lieutenant Governor, President of the Senate.

The Senate was opened with prayer by the Reverend Harry Alexander, pastor of the Presbyterian Church, South, Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names, viz:

Wm. R. Attkisson	John M. Hall	Paul L. Sidebottom
Aubrey Barbour	J. Joseph Hettinger	John A. Sugg, Jr.
Paul M. Basham	H. Watt Hillman	Jos. P. Tackett
H. Stanley Blake	Wm. H. Jones, Jr.	J. E. Trager
Ollie J. Bowen	Leo King	Thomas O. Turner
Leer Buckley	J. W. McDonald	E. T. Wesley
Dr. D. H. Bush	Strother Melton	Otis White
Waller A. Crockett	E. C. Moore	O. C. Whitfield
Edwin C. Dawson	J. Lee Moore	B. M. Williams
W. C. Farmer	Ray B. Moss	J. M. Wolfenbarger
Lee Gibson	James C. Rogers	
Ralph Gilbert	Ira W. See	

Senator Gilbert moved that the reading of the Journal of the proceedings of Wednesday, January 26th, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.



Senator Jones moved that the rules be suspended and the privilege of the floor be extended to the Honorable Yancey Handy, Cave City, Kentucky.

Said motion was unanimously agreed to.

Senator Attkisson moved that the rules be suspended and the privilege of the floor be extended to Miss Laura Rogers, sister of Senator J. C. Rogers.

Said motion was unanimously agreed to.

Senator Basham moved that leaves of absence be granted to all absent Senators.

Said motion was agreed to.

Senator Sugg moved that the rules be suspended and the privilege of the floor be extended to Mr. and Mrs. Elliott Morton and Mr. G. P. Robertson of Morganfield, Kentucky.

Said motion was unanimously agreed to.

### INTRODUCTION OF BILLS

Bills of the following titles were introduced, ordered printed and referred, as follows, viz:

By Senator White.

S. B. 132. An Act to exempt disabled war veterans from poll tax.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That

Any honorably discharged soldier, sailor or marine, who

shall have served ninety days or more in the military or naval forces of the United States, and who is totally disabled as evidenced by pension certificate or award of compensation shall be exempt from any and all poll tax within the Commonwealth.

Provided, however, that this shall not apply to individuals who were residents of other states at the time of their induction into service.

To Committee on Appropriations.

By Senator Gibson.

S. B. 133. An Act to amend and re-enact Section 4749, Kentucky Statutes, relating to the adoption of labels of brands by labor unions, or associations, and then filing of same in the office of the Secretary of State: The certifying of same by the Secretary of State and the fee to be charged therefor.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 4749, Kentucky Statutes, be and the same is hereby amended and re-enacted to read as follows:

**LABEL OR BRAND; ADOPTION OF; RECORDING IN SECRETARY OF STATE'S OFFICE.**—Every union or association of working men or women adopting a label, mark, name, brand or device intending to designate the products of the labor of members of such union or association of working men or women shall, in order to obtain the benefits of this act, file duplicate copies of such label, mark, name, brand or device in the office of the secretary of state, who shall, under his hand and seal, deliver to the party filing or registering the same a certified copy, and a certificate of the filing thereof, for which he shall receive a fee of *ten dollars* (\$10.00).

To Committee on Appropriations.

By Senator Trager.

S. B. 134. An Act relating to Firemen's Pension Funds in Cities of the First Class; providing for their creation and administration; providing for Boards of Trustees to administer such Pension Funds; providing for the election and organization of such Boards, and defining their powers and duties; providing for the financial support of such Pension Funds; providing for the classes of beneficiaries of such Pension Funds, and the amount of pension to be paid such beneficiaries.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. In every City of the first class, there is hereby created a "Board of Trustees of the Firemen's Pension Fund", to be elected as hereinafter directed, and also a Firemen's Pension Fund to be derived from the sources and in the manner hereinafter provided. And said fund shall be managed and disbursed according to the provisions of this Act.

§ 2. The "Board of Trustees of the Firemen's Pension Fund" shall be composed of seven members, two of whom shall be the Mayor and the Chief of the Fire Department, who shall be, by virtue of their respective offices, members of such Board. Their membership shall continue while in office, and in case of their death, resignation or removal, or on the expiration of their respective terms, their successors shall be ex officio members of such Board. The other members of the Board shall be elected from the members of the Fire Department for the terms, and in the manner hereinafter provided.

The said Board shall have the management and control

of the said Firemen's Pension Fund, and of all matters therewith legitimately connected, and shall manage, use and disburse the same for the purposes hereinafter specified. The Board shall have power to adopt and enforce such By-Laws as may be necessary to enable it effectively and properly to carry into execution the purposes for which it was organized, provided that such By-Laws shall not in any wise contravene the provisions of this Act.

Each of said trustees shall, before entering upon the duties of his office, take an oath faithfully to perform the duties thereof.

§ 3. There shall be held on the first Saturday in September, 1938, and annually thereafter an election for the purpose of electing members of the Board of Trustees of such Pension Fund. On or before the 10th day of August preceding, all nominations for such Board shall be filed with the Chief of the Fire Department. Such nominations shall be in writing, and shall be signed by not less than twenty-five members of the Fire Department. No member of the Fire Department shall sign any more nomination petitions than there are vacancies to be filled. Within five days after the close of nominations, the Chief of the Fire Department shall certify in writing to all of the fire companies of said Fire Department the names of those placed in nomination. On said first Saturday in September between the hours of 6 A. M. and 4 P. M. an election shall be held under the supervision of the Captain of said Fire Companies, and each member of the Fire Department shall vote at the Fire Company of which he is a member. Such members of the Fire Department as do not belong to any specific company shall vote at the office of the Chief of the Fire Department. On the close of the ballot, the Captain of the Fire Company shall, in the presence of the nominees, or their duly authorized agent, open the ballot box, the vote being by secret ballot, and shall canvass the returns. He shall thereupon make a certificate of such canvass, and shall thereupon return such certificate with said ballots

in a secure envelope properly sealed, to the Mayor of the City, who shall, on the following Saturday, open all of the certificates so received, and after canvassing all the returns, certify the result to the said Board of Trustees, and thereupon, on the third Saturday in September, the candidate or candidates receiving the highest number of votes shall assume the duties of their office.

At the first election, the two candidates receiving the highest number of votes shall be elected for a period of four years from the date of their assumption of office, as herein provided. The next highest candidate shall be elected for a period of three years; the next highest candidate for a period of two years, and the next highest candidate for a period of one year. Annually thereafter there shall be elected one member of the Board for a term of four years. In the event of a vacancy caused by death, resignation or otherwise, the Board of Trustees shall have power to fill the vacancy until the next regular election, when, in addition to the member then regularly to be elected, there shall also be elected a member or members to fill the vacancy as aforesaid.

§ 4. Said Pension Fund shall consist of (1st) All moneys that may be given to such Board or Fund by any person or persons for the use and purposes for which such fund is created. And such Board of Trustees may take by gift, grant, devise or bequest any money, personal property, real estate or interest therein, or any right of property, and any such gift, grant, devise or bequest may be absolute or in fee simple, or upon the condition that only the rents, income or profits arising therefrom shall be applied to the purposes for which said fund is established. (2nd) All fines from disciplinary action against any member of the Department. (3rd) All fines from violations of City Ordinances relative to fire prevention and protective regulations. (4th) All moneys, rewards or emoluments of every nature or description that may be paid or given to the Fire Department, or any of the fire companies of said department. (5th) All revenues that



may be received from exhibitions, field days and the like, as may be promoted by members of the Fire Department. (6th) Every member of the Fire Department shall be assessed two per cent (2%) of his salary, when, as and if paid to him, the said assessment to be deducted from said salary and paid over to the Director of Finance, to be by him contributed to the Pension Fund. (7th) There may be levied and set apart by the Legislative Department of all Cities of the First Class, annually, a tax of not more than one and one-half cents on each \$100.00 of value of the taxable property in said Cities for said year, to be paid into said Firemen's Pension Fund, for the purposes of said fund as herein declared, and also from and after July 1st, 1940, two per cent (2%) of the gross fire insurance premiums received on all fire insurance policies written or effected on property located in such city of the first class.

§ 5. The Board of Trustees of the Firemen's Pension Fund may at any time, after considering the probable demands upon such fund, determine what part thereof may be safely drawn therefrom for investment for revenue purposes, and having so determined, shall enter their proceedings at length upon their record. And thereupon such Board of Trustees shall determine in what manner it shall be invested, which may be by the purchase of any of the interest bearing bonds of the United States or of any City of the First Class of the State of Kentucky. All securities so purchased shall be deposited with the Director of Finance, who shall collect all interest due thereon and place the same to the credit of such Pension Fund. The said Director of Finance shall keep a separate account of such Fund, and therein fully and accurately set forth a statement of all money received and paid out by him, and he shall, on the first Monday of January and July of each year make report to the Board of Trustees of the Firemen's Pension Fund, of all moneys received and disbursed by him. The President of the said Board shall execute bond in such sum as the Board may deem adequate, con-

ditioned that he will faithfully discharge the duties of his office, which bond shall be filed with the Comptroller of said City. The Board of Trustees shall make a full and accurate report of the condition of such Pension Fund to the Mayor on the first Monday in October in each year.

§ 6. If any member of said Fire Department shall, while in the performance of his duty, become or be found, upon examination by a medical officer to be agreed upon by such member or said Chief, or in the event they cannot agree upon such medical officer, then by a physician to be chosen by the said chief, a physician chosen by said member and a third physician chosen by said two physicians, ordered by the Chief of the Fire Department, to be physically or mentally disabled so as to render necessary his retirement from all service on the Fire Department, such Chief shall retire such disabled person, and the Board of Trustees shall authorize the payment to such person monthly from the Pension Fund the sum provided in the Next Section. When any member of such Fire Department, or retired member on the Pension Fund thereof dies from any cause whatsoever, and leaves a widow to whom he was married at the time of his retirement, or child or children under eighteen years of age, the Board of Trustees shall authorize the payment to such widow while unmarried, and child or children under eighteen years of age, monthly from the Pension Fund the sum or sums provided in the next section, or if any deceased member shall have a dependent mother or father, the Board of Trustees shall authorize the payment to such mother or father monthly from the Pension Fund the sum provided in the next section, provided, however, that no pension shall be paid to the mother or father of a deceased member who leaves a widow entitled to a pension under the provisions of this Act, and if the widow of a deceased member shall remarry, her pension, shall cease, provided that if the pension of the widow of a deceased member shall have ceased by virtue of her remarriage, and if the person to whom she was remarried was a retired member of

the Fire Department who was himself entitled to a Pension, then upon the decease of the member to whom she was so remarried, she shall again be entitled to receive a pension as the widow of a deceased member as though she had not been remarried. If at any time there should not be sufficient money or funds to the credit of the said Pension Fund to pay to each beneficiary the full amount per month to which such beneficiary may be entitled, then and in that event, an equal percentage of such monthly payments shall be made to each until such Fund is so replenished as to warrant payment in full to each of such beneficiaries. All employees of the Fire Department, on the establishment of the Firemen's Pension Fund herein provided for shall become members of said Fund, and be entitled to all of the benefits thereof, and shall pay the assessments herein provided, and be subject to all the other provisions of this Act and all amendments thereof. All those beneficiaries drawing pensions at the time of the effective date of this Act from any Firemen's Pension Fund heretofore created by Statute or Ordinance of a City of the First Class shall continue to draw such pensions from the Pension Fund created by this Act until their respective rights to such pensions shall terminate for the causes upon which their respective pensions were granted to them.

§ 7. The sums to be paid to permanently disabled members and widows and orphans or dependent mothers or fathers shall be as follows: Upon retirement with such disability during service, a member shall receive fifty per cent. (50%) of the average monthly wage received by him during the five years previous to his retirement, and in the event of his decease while in such service or after such retirement, the widow shall receive a like pension which shall be for her benefit and that of her children under eighteen years of age, and in the event that at the time of the death of such retired fireman, he leaves no widow, but a child or children under eighteen years of age, such child or children shall receive a like pension as long as such child or children remain under eighteen years of

age, which pension shall be for the benefit of those children under eighteen years of age. In the event the dependent mother or father shall be entitled to the pension as provided in the Section just preceding this one, then such dependent father or mother shall receive that portion of the pension a widow would have received, had there been a widow, as represents the proportion of the support they received from such son, a member of the Fire Department, during his lifetime. Any member of the Fire Department who has been in such service twenty years or more, and has reached the age of fifty-one (51) years may upon written application to the Chief of such Fire Department, or upon the request of the Director of Safety, or of the Board of Trustees, be, without medical examination or disability, retired from all service from such Fire Department, and upon such retirement, the Board of Trustees shall authorize the payment to such retired member of the pension equal to that he would have received upon retirement with disability as hereinbefore provided.

Any member of such Fire Department who has reached the age of sixty-two (62) years, and has served twenty (20) years in the Department, shall, unless such fireman be, by the Chief of the Fire Department, or the Director of Safety, declared unusually efficient, and retained on the active force, be retired, and on such retirement shall receive such pension as he would have received upon voluntary retirement as herein provided. The pension of the dependents of such retired members shall be the same in case of death after retirement as provided for dependents of those who die in the service, or after retirement with disability.

§ 9. After any member of such Fire Department shall have been retired upon pension by reason of disability, the Board of Trustees shall have the right, at any time, to cause such retired member again to be brought before it, and again examined by competent physicians and surgeons, and shall also have the right to examine other witnesses for the purpose of discovering whether such disability yet continues, and



whether such retired member should be continued on the pension roll; but he shall remain upon the pension roll until reinstated in the service of the Fire Department, except in case of dismissal or resignation. Such retired member shall be entitled to notice and to be present at the hearing of any such evidence. He shall be permitted to propound any questions pertinent or relevant to such matter, and shall also have the right to introduce evidence on his own behalf. All witnesses so produced shall be examined under oath, and any member of such Board of Trustees is hereby authorized to administer such oath to such witnesses. The decision of such Board shall be final, and no appeal shall be allowed therefrom, nor shall the same be reviewable by any Court or other authority.

§ 10. The payment of all pensions shall be made by warrant drawn by the order of the Board of Trustees, signed by the President and counter-signed by the Secretary.

§ 11. No part of such Pension Fund shall, either before or after any order for the distribution thereof to members of such Fire Department, or to the widows or guardians of any such child or children, or to the dependent father or mother of any deceased, disabled or retired member of such Force, be held, seized, taken, subjected to, detained, levied on by virtue of any attachment, execution, judgment, writ, interlocutory or other order, decree or process, or proceedings of any nature whatsoever issued out of or by any Court in this or any other State for the payment or satisfaction, in whole or in part, of any debt, damages, claim, demand, judgment, fine, amercement of such member or his widow or children, or of the dependent mother or father, or children, or of the dependent mother or father of any deceased member; but the said Fund shall be sacredly kept, secured, promoted and distributed for the purpose of pensioning the persons named in this act, and for no other purpose whatever; Provided, That said Board may annually expend such sum as it may deem proper for such Fund for the necessary expenses connected therewith.



§ 12. The Director of Finance is hereby made the custodian of all the moneys belonging to such Firemen's Pension Fund, and all moneys belonging thereto shall be promptly paid to him. He shall be liable on his bond as such Director for the faithful performance of all the duties imposed upon him by the provisions of this Act in relation to the Firemen's Pension Fund, and for the faithful accounting for all moneys and securities which may come into his hands belonging thereto, and he shall keep a separate account thereof which shall at all times show the true condition of such Fund.

To Committee on Municipalities.

By Senator Barbour.

S. B. 135. An Act to amend and re-enact Section 579 of Carroll's Kentucky Statutes, 1936 Edition.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section five hundred seventy-nine (579) of Carroll's Kentucky Statutes, one thousand nine hundred thirty-six (1936) Edition, be and is hereby amended and re-enacted so that, when thus re-enacted, it shall read as follows, to-wit:

When the articles are filed and recorded as above provided it may commence business and shall thereupon become a body corporate, and to be known by and carry on its business in its corporate name, and as such shall have power to adopt and use a corporate seal; to make contracts; sue and be sued; to appoint, remove and elect officers, define their duties, and require from any of them a bond for the faithful discharge of their duties; to prescribe, by its board of directors, by-laws for the government of the bank not inconsistent with laws; to exercise, subject to law, such powers as may be necessary to carry on the business of banking by discounting

and negotiating notes, drafts, bills of exchange, and other evidences of debt, and purchasing bonds, receiving deposits, and allowing interest thereon, buying and selling exchange, coin and bullion, and lending money on personal or real security, as provided in this article. Any bank or trust company may accept for payment at a future date drafts or bills of exchange drawn upon it by its customers and issue letters of credits authorizing the holders thereof to draw drafts upon it or its correspondents at sight or on time, not exceeding one year, and may also accept drafts or bills of exchange drawn upon it, having not more than six months' sight to run, growing out of transactions involving the importation or exportation of goods, and any bank or trust company may discount acceptances which are based upon the importation or exportation of goods, and which have a maturity at time of discount of not more than three months and are endorsed by at least one other bank or trust company, but no bank or trust company shall accept such drafts or bills of exchange to an amount equal at any time in the aggregate to more than one-half of its paid-up and unimpaired capital stock and surplus, except by authority of the *Director of the Division of Banking* under such general regulation as said *Director* may prescribe, and in no event to an amount exceeding the capital stock and surplus of such bank or trust company; and such regulations shall apply to all banks or trust companies alike regardless of the amount of capital stock and surplus. In addition to the powers heretofore conferred upon and now possessed by banks, trust companies and combined banks and trust companies doing business under the laws of this State, they are hereby authorized and empowered and subject to existing statutory or charter limitations to pledge such portion of their assets as may be required by law as collateral security for government deposits made with them, or any of them, by or under the authority of the United States, or for any other deposit required by laws to be secured. *Provided, however, that notwithstanding any provision of this Act or*

*of any law of this Commonwealth or of any political subdivision thereof requiring security for deposits in the form of collateral, surety bond or in any other form, security for such deposits shall not be required to the extent said deposits are insured under the provisions of Section 12B of the Federal Reserve Act, as amended, or any amendments thereto, and provided that if a bank proposes to sell its assets and transfer its deposit liability to another bank and if the purchasing bank is unwilling to accept a sufficient amount of the assets to cover the liability to depositors and other creditors, the selling bank may pledge all or a part of its remaining or unacceptable assets to secure a loan for an amount sufficient to cover the remaining liability to the depositors and other creditors with the consent of the Director of the Division of Banking.*

All laws and part of laws in conflict with this Act are hereby repealed to the extent of such conflict.

To Committee on Banks & Trust Companies.

By Senator Jones.

S. B. 136. An Act establishing as part of the Primary System a road known as the Woods-Berry Road in Barren County.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as part of the Primary System of State Highways of the Commonwealth of Kentucky a road in Barren County to be known as the Woods-Berry Road, said road connecting the Jackson Highway (U. S. 31-E) with the Glasgow-Edmonton road (No. 80), from a point at the curve in front of the B. C. Woods home, thence in easterly direction to the Glasgow-Edmonton road to in-

tersect with the New Salem road at its junction with said Glasgow-Edmonton road.

§ 2. That the construction, maintenance, supervision and control of said road shall be subject to and controlled by the provisions of Chapter 17 of the Acts of the General Assembly of 1920, and all other laws pertaining thereto establishing, creating and governing the Primary System of State Highways, to the same effect as if said road had been named in the Original Act as one of the projects of the Primary System of State Highways as provided therein.

To Committee on Roads & Highways.

By Senator Bush.

S. B. 137. An Act to amend and re-enact Section 3868 of Carroll's Kentucky Statutes, Baldwin's Revision, 1930 Edition, same being Section 32, page 539, Chapter 156 of the Acts of the General Assembly of the Commonwealth of Kentucky of 1893, relating to prior claims on estates and repealing all laws or parts of laws in conflict with this act.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 3868 of Carroll's Kentucky Statutes, Baldwin's Revision, 1930 Edition, same being Section 32, Page 539, Chapter 156 of the Acts of the General Assembly of the Commonwealth of Kentucky of 1893, be and the same is hereby amended and re-enacted so that when same is so amended and re-enacted it shall read as follows:

“If the personal estate of a decedent be not sufficient to pay his liabilities, then the expenses and charges of the administration of his estate, and the amount of the estate of a dead person, or of a ward, or of a person of unsound mind, committed by a court of record to, and remaining in the hands

of, a decedent, shall be paid in full before any pro-rata distribution shall be made; but this preference shall not extend to a demand foreign to this state. All other debts and liabilities shall be of equal dignity, and paid ratable in the administration of his estate, and should more than the ratable share of any debt be paid, his personal representative shall only receive credit for its proper proportion.”

§ 2. All laws or parts of laws in conflict with this Act are hereby repealed.

To Committee on Kentucky Statutes No. 1.

By Senator Jones.

S. B. 138. An Act establishing as part of the Primary System of State Highways a road to serve as an alternate for route U. S. No. 31-E in Barren County.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as part of the Primary System of State Highways of the Commonwealth of Kentucky a road in Barren County to serve as an alternate route for U. S. 31-E north of Glasgow, thereby relieving much congestion that arises from the flow of traffic on one artery as at present; said road to begin at the north-east corner of the Public Square in Glasgow and continue along north Green street to the corporate limits of the City of Glasgow, thence along a state road that shall be a continuation of said street, to an intersection with the Woods-Berry road, about 1.2 miles north of the City, thence west along said Woods-Berry Road to its intersection with the present route U. S. 31-E.

§ 2. That the construction, maintenance, supervision and control of said road shall be subject to and controlled by the provisions of Chapter 17 of the Acts of the General As-



sembly of 1920, and all other laws pertaining thereto establishing, creating and governing the Primary System of State Highways, to the same effect as if said road had been named in the Original Act as one of the projects of the Primary System of State Highways as provided therein.

To Committee on Roads & Highways.

By Senator Jones.

S. B. 139. An Act establishing as part of the Primary System of State Highways a road known as the Black-Humble Road in Barren County.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as part of the Primary System of State Highways of the Commonwealth of Kentucky a road in Barren County known as the Black-Humble Road, said road to follow the present state highway from its junction with the Glasgow-Edmonton road continuing in easterly direction to a point opposite the James Black place, thence in general southerly direction to a junction with Humble Street, thence along said Humble Street to junction with the Glasgow-Burkesville road.

§ 2. That the construction, maintenance, supervision and control of said road shall be subject to and controlled by the provisions of Chapter 17 of the Acts of the General Assembly of 1920, and all other laws pertaining thereto establishing, creating and governing the Primary System of State Highways, to the same effect as if said road had been named in the Original Act as one of the projects of the Primary System of State Highways as provided therein.

To Committee on Roads & Highways.

By Senator Jones.

S. B. 140. An Act establishing as part of the Primary System of State Highways a road known as the Wilkinson Mill Road in Barren County.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as part of the Primary System of State Highways of the Commonwealth of Kentucky a road in Barren County known as the Wilkinson Mill road, said road following its present route from Marr's Shop on the Glasgow-Tompkinsville road, across Skeegg's Creek over what is known as the Bertram Ford bridge, thence in a southerly direction along present county road to the Glasgow-Flippin road near the Akers farm.

§ 2. That the construction, maintenance, supervision and control of said road shall be subject to and controlled by the provisions of Chapter 17 of the Acts of the General Assembly of 1920, and all other laws pertaining thereto establishing, creating and governing the Primary System of State Highways, to the same effect as if said road had been named in the Original Act as one of the projects of the Primary System of State Highways as provided therein.

To Committee on Roads & Highways.

By Senator Jones.

S. B. 141. An Act establishing as part of the Primary System of State Highways a road known as the Boyds Creek Road in Barren County.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as part of the

Primary System of State Highways of the Commonwealth of Kentucky a road in Barren County known as the Boyds Creek Road, said road to follow the most practical route between the Glasgow-Burkesville and Glasgow-Tompkinsville Roads in a manner to best serve the public in frequenting the Siloam Church, the Boyds Creek Church, and the Boyds Creek Schoolhouse, without regard to existing roadway.

§ 2. That the construction, maintenance, supervision and control of said road shall be subject to and controlled by the provisions of Chapter 17 of the Acts of the General Assembly of 1920, and all other laws pertaining thereto establishing creating and governing the Primary System of State Highways, to the same effect as if said road had been named in the Original Act as one of the projects of the Primary System of State Highways as provided therein.

To Committee on Roads & Highways.

By Senator Williams.

S. B. 142. An Act to amend and re-enact Section 2739j-2a, Carroll's Kentucky Statutes, 1930 Edition, which is paragraph 21a of Chapter 112, found on page 361 of the Acts of March 5, 1926, of the Kentucky Legislature.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of Kentucky:*

That Section 2739j-21a, Carroll's Kentucky Statutes, 1930 Edition be amended and re-enacted by striking therefrom the following words, "providing that on said casual trips no one shall be allowed to pick up any passengers along the route nor be permitted on the return trip to haul any person or persons other than those included in the original trip." So that after said Section 2739j-21a is so amended and re-enacted it will read as follows:

"2739j-21a. 'Casual trips' as used in this Act and sec-

tion means that any person, firm or corporation not operating under a certificate between a fixed termini or over a regular route may operate over any route between a fixed termini where other person or persons hold a certificate or certificates.’’

To Committee on Motor Vehicles & Transportation.

By Senator Williams.

S. B. 143. An Act to amend and re-enact Section 2739j-76, Carroll’s Kentucky Statutes, 1930 Supplement, which is paragraph 8 of Article 4 of Chapter 104 of the Acts of 1932 of the Kentucky Legislature.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 2739j-76, of Carroll’s Kentucky Statutes, 1933 Supplement, be amended and re-enacted by adding thereto after the word “hire” and before the word “provided” in the 16th line of said section the following words and phrases: “provided, however, that in the case of all ‘U-Drive Its,’ jitneys, taxi-cabs, all contract carriers and all motor vehicles operated on ‘casual trips,’ the said indemnity bond or insurance policy shall in no event exceed the penal sum of One Thousand (\$1,000.00) Dollars, for each motor vehicle operated, for death or injury to any passenger or passengers or other persons, and the sum of Five Hundred (\$500.00) Dollars, for each vehicle, on any property injured in connection with the operation of said motor vehicle and”; so that after said Section 2739j-76 is so amended and re-enacted it will read as follows:

“2739j-76. No certificate or permit shall be issued until there has been filed with and accepted by the Commission a good and sufficient indemnity bond or insurance policy issued

by some surety or insurance company or other insurance carrier, duly authorized to transact business as such with this state, which shall provide by such terms, conditions and provisions and in such penal sums or maximum amounts as said Commission may deem necessary for the reasonable protection of the patrons of the operator of the motor vehicle for hire and of the public in the collection of damages for which the operator may be liable by reason of the operation of any motor vehicle for hire; provided, however, that in the case of all 'U-Drive Its,' jitneys, taxi-cabs, all contract carriers and all motor vehicles operated on 'casual trips,' the said indemnity bond or insurance policy shall in no event exceed the penal sum of One Thousand (\$1,000.00) Dollars for each motor vehicle operated, for death or injury to any passenger or passengers or other persons, and the sum of Five Hundred (\$500.00) Dollars, for each vehicle, on any property injured in connection with the operation of said motor vehicle; and provided, however, that the bond or insurance policy required of a contract carrier or the operator of a motor vehicle for hire engaged solely in interstate commerce shall not be for the protection of the patrons of the motor carrier; and provided further that no certificate or permit shall be issued until there has been filed with the Commission a bond in the penal sum of One Thousand (\$1,000.00) Dollars, payable to the State of Kentucky, with some surety company qualified to do business in the state as surety thereon, conditioned that the applicant shall pay any and all fees, taxes or penalties which may be due under the provisions of this Act and for the faithful compliance with all lawful decisions, orders, rules, regulations, demands and requirements of the Commission made, rendered, issued or promulgated under the provisions of this Act. Provided, however, if the Commission, in its discretion shall deem it necessary, it may require that the amount of the bond to be given shall be increased to an amount not to exceed Five Thousand (\$5,000.00) Dollars. No bond or insurance policy may be canceled or otherwise terminated at



any time prior to its expiration for any reason whatever until there has been filed with said commission by the surety or indemnity company a notice to such effect at least fifteen (15) days prior to the date of such termination or cancellation. This provision shall be deemed to be a part of every such undertaking, and no other provision thereof, and no agreement between the parties thereto, shall operate to avoid the same. If any such bond or insurance policy shall become inoperative, the authority under the certificate or permit shall cease and be suspended until a bond or insurance policy meeting the requirement of this section shall become effective and be filed with said Commission."

To Committee on Motor Vehicles & Transportation.

By Senator Williams.

S. B. 144. An Act to amend and re-enact Sections 2739l-2 and 2739l-3, Carroll's Kentucky Statutes, 1933 Supplement, which are Paragraphs 2 and 3 of Chapter 78 of the Acts of the Kentucky Legislature for the year 1930.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of Kentucky:*

That Section 2739l-2, Carroll's Kentucky Statutes, 1933 Supplement, be amended and re-enacted by adding thereto after the word "Commissioner" and before the words "the name in line 12 of said Section, the following words, "through the clerk of the county where the automobile for which said license plates are sought has been registered by the owner as provided in Section 2739j-2a, Carroll's Kentucky Statutes, 1933 Supplement, be amended and re-enacted by adding thereto after the first Literary Paragraph thereof and immediately after the words, "operation of said motor vehicle," the following words, "provided, however, that for each U-Drive It, Taxi-cab or Jitney, the said bond shall be in the penal sum

of One Thousand Dollars (\$1,000.00), for the death of or injury to any passenger or passengers of other persons, and for the further sum of Five Hundred Dollars (\$500.00), for any injury to property in connection with the operation of said U-Drive It, Taxi-cab, or Jitney," and by striking therefrom the following words from the second Literary Paragraph thereof, "instead of such bond, the Commissioner shall accept a policy of insurance in any insurance Carrier authorized to do business in this Commonwealth; provided, however, that under the terms of said policy the owner of such vehicle shall be insured against damages for personal injuries or death resulting therefrom, in the sum of at least five thousand dollars (\$5,000.00) and property damages in the sum of at least one thousand dollars (\$1,000.00), by the Insurance Commissioner, or he may provide any other contract in writing deemed by said commissioner adequate by which any surety company or individual shall assume the liability prescribed by this section," and substituting for the same the following words:

"Instead of such bond, the Commissioner may accept and file a policy of insurance issued by any insurance company or carrier authorized to do business in this Commonwealth, or he may accept any other contract in writing deemed by said commissioner to be adequate, by which any insurance company or carrier or any surety company or individual shall assume the liability prescribed by this section." So that after said Section 2739I-2 and 2739I-3 are so amended and re-enacted they will read as follows:

"2739I-3. No corporation, person or firm shall hereafter engage in the transportation of persons for hire by motor vehicle on any public highway or street of any municipality in this state without having paid to the Commissioner of Motor Transportation the fee provided in subsection 27 of Chapter 112 of the Acts of 1927 (K. S. 2739j-27). Before said Commissioner shall issue the license plate referred to in the above act, the applicant shall be required to file with said

Commissioner, through the clerk of the county where the automobile for which said license plates are sought has been registered by the owner as provided in Section 2739j-2a, Carroll's Kentucky Statutes, 1930 Edition, the name of the owner of the corporation, person, or firm which intends to operate said motor vehicle or vehicles, the name of the chief officer of the corporation, the members composing the partnership, or the person owning said vehicles and to file with the commissioner a list of all drivers employed. That if changes are made in the drivers or any additional drivers are employed, the person, firm or corporation shall furnish a list of said drivers to the said commissioner. Provided, however, that no person shall be considered as a regular driver unless he is hired for a period of at least thirty days."

"2739l-3. Before any license is granted, the applicant shall furnish security by filing with the Commissioner of Motor Transportation, good and sufficient bond with adequate surety payable to the Commonwealth of Kentucky, which shall bind the obligor therein to pay any final judgment rendered against any such motor carrier arising out of the death or injury to any passenger or passengers, or loss or damage to property while in transit, or injury to other persons or property, or any act or omission connected with the operation of such motor carrier, which bond shall be in the penal sum of Five Thousand Dollars (\$5,000.00), for each motor vehicle operated, for the death or injury to any passenger or passengers or other persons, and the sum of One Thousand Dollars (\$1,000.00), for each vehicle or any property injured in connection with the operation of said motor vehicle, provided, however, for each U-Drive It, Taxi-cab or Jitney, the said bond shall be in the penal sum of One Thousand Dollars (\$1,000.00), for the death of or injury to any passenger or passengers or other persons, and the further sum of Five Hundred Dollars (\$500.00), for any injury to property in connection with the operation of said U-Drive It, Taxi-cab or Jitney.

“Instead of such bond, the Commissioner may accept and file a policy of insurance issued by any insurance company or carrier authorized to do business in this Commonwealth, or he may accept any other contract in writing deemed by said Commissioner adequate, by which any insurance company or carrier or any surety company or individual shall assume the liability prescribed by this section.

“The Commissioner may exempt in whole or in part, from the requirements of this paragraph, any motor carrier upon application for such exemption and upon showing to the commissioner to his satisfaction that by reason of the financial ability of the motor carrier or otherwise, there exists due insurance for the payment of any and all damages for which it, they, he or she may be liable as a result of the negligent operation of the proposed service to the extent of the insurance or bond herein required. The exemption herein provided shall be made only by written order of the Commissioner. The commissioner may from time to time require statements of financial ability of such motor carrier, and may, upon ten days’ notice in writing, for cause, revoke his or her granting such exemption, in which case said motor carrier shall immediately comply with the requirements of this section.”

To Committee on Motor Vehicles & Transportation.

By Senator Williams.

S. B. 145. An Act to amend and re-enact Section 27391-15, Carroll’s Kentucky Statutes, 1933 Supplement, which is Paragraph 7 of Chapter 99 of the Acts of the Kentucky Legislature for the year 1932.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of Kentucky:*

That Section 27391-15, Carroll’s Kentucky Statutes, 1933

Supplement, be amended and re-enacted by striking therefrom the following words, "And on such casual trips the operator, or the driver of such motor vehicle, shall not pick up any passengers along the route and shall not on the return trip carry any passengers other than those carried on the original trip." So that after said Section 28391-15 is so amended and re-enacted it will read as follows:

"27391-15. No operator of a motor vehicle for the carriage of passengers for hire, not holding a certificate of public convenience and necessity issued by the Commission or other regulatory body of the State and operating between fixed termini or over regular routes, shall operate in competition with the holders of a certificate, except for casual trips thereon or thereover. The violation of the provisions of this section shall constitute a violation of this Act, punishable as in Section 6 (K. S. 27391-6 hereof provided.

To Committee on Motor Vehicles & Transportation.

By Senator Williams.

S. B. 146. An Act to amend and re-enact Sections 2739j-63, 2739j-64 and 2739j-70, Carroll's Kentucky Statutes, 1933 Supplement, which are Paragraphs 2 and 3 of Article 3 and Paragraph 2 of Article 4 of Chapter 104 of the Acts of the Kentucky Legislature for the year 1932.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of Kentucky:*

That Section 2839j-63, Carroll's Kentucky Statutes, 1933 Supplement, be amended and re-enacted by adding to the end thereof the following words: "through the clerk of the county in which the owner registered his automobile under Section 2739j-2a, Carroll's Kentucky Statutes, 1930 Edition, "and that Section 2739j-64, Carroll's Kentucky Statutes, 1933 Supplement, be amended and re-enacted by adding thereto after



the word "made" in the first line of said Section and before the words "in the manner" in the second line of said Section, the words "through said clerk," and adding thereto after the word "and" and before the word "said" in the third line of said Section the following words, "Said application shall be accompanied by all fees required by law of such applicant, same to be returned to the applicant in case the Commission fails or refuses to issue him a permit, and," and that Section 2739j-70 be amended and re-enacted by adding thereto after the word "Commission" and before the word "for" the following words, "through the clerk where the owner has registered his automobile." So that after said Sections 2739j-63, 2739j-64 and 2739j-70 are so amended and re-enacted they will read as follows:

"2739j-63. No contract carrier shall operate any motor vehicle for hire for the transportation of persons or property on any public highway in this State without having obtained a permit from the Commission, through the clerk of the county in which the owner registered his automobile under Section 2739j-2a, Carroll's Kentucky Statutes, 1930 Edition.

"2739j-64. Applications for permits shall be made through said clerk in the manner and form provided for in the Commission's regulations and said application shall be accompanied by all fees required by law of such applicant, same to be returned to the applicant in case the Commission fails or refuses to issue him a permit, and said Commission may, if it deems it advisable, require a public hearing to be held thereon, and in this event it shall give written notice thereof to all persons who may, in the opinion of said Commission, be interested in or affected by the issuance of such permit at least ten days prior to the time fixed for such hearing.

"2739j-70. Distinguishing plates shall be prescribed and furnished by the Commission, through the clerk where the owner has registered his automobile, for, and shall be at all times displayed on, each motor vehicle authorized by the

Commission to operate under this Act. The transfer of such plate from one vehicle to another is prohibited except upon the authority and consent of the Commission.

To Committee on Motor Vehicles and Transportation.

### CALENDAR

The Senate took up for consideration from the Calendar bills of the following titles, viz:

S. B. 53. An Act to repeal Section 574 of the Code of Practice in Civil Cases, Carroll's Civil Code of Practice, Baldwin's 1932 Edition, relating to taking depositions upon interrogatories.

S. B. 71. An Act to amend Section 965, Carroll's Kentucky Statutes, 1936 Edition, and being the time of holding court in the 24th Judicial District composed of Johnson and Martin Counties and fixing the time therefor, relating to Circuit Courts.

S. B. 82. An Act pertaining to banking and to amend and re-enact Section 595 Carroll's Kentucky Statutes, 1930 Edition, as amended by Chapter 1 of the Acts of the Extraordinary Session of the General Assembly of the Commonwealth of Kentucky of 1933, and as amended by Chapter 12 of the Acts of the Regular Session of the General Assembly of the Commonwealth of Kentucky of 1936, so as to provide to the holders of non-assessable preferred capital stock issued by a bank or trust company or combined bank and trust company exemption from assessment to restore impairment of capital and rights with respect to dividends, voting and conversion rights, control of management and preference in the event of retirement of said stock, or liquidation of the corporation, and prescribing a basis for determination of whether or not there exists an impairment of the capital of

a bank or trust company or combined bank and trust company which has issued such stock.

S. B. 78. An Act to amend and re-enact Section 165a-9 of Carroll's Kentucky Statutes, 1936 Edition, relating to fees for examination of banks.

S. B. 81. An Act to repeal, amend and re-enact Sections 165a-15 and 586 of Carroll's Kentucky Statutes, 1936 Edition, relating to the impairment of a bank's capital, duty of bank and Director of the Division of Banking, reduction of capital and how impairment shall be made good.

H. B. 11. An Act to amend and re-enact Chapter 65, Article 5, Section 17 of the Acts of the General Assembly of the Commonwealth of Kentucky enacted at its 1934 Regular Session and effective June 14, 1934. Said act relating to the qualifications of board members, and being edited as Section 4399-22, Baldwin's Kentucky Statutes, 1936 Edition.

S. B. 11. An Act requiring the operators of all vehicles to stop before passing a school bus upon a public highway which shall be stopped for the purpose of receiving or discharging passengers and providing penalty for violation.

Senator Hillman moved that the Constitutional provision as to the second reading at length of said bills be dispensed with and same be read for the second time by their titles only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the second reading at length of said bills having been dispensed with,

said bills were read for the second time by their titles only and

Ordered placed in the Orders of the Day.

Senator Whitfield moved that the rules be suspended for the purpose of allowing committees to report.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Whitfield, Chairman of the Committee on Agriculture and State Fair, to which same had been previously referred, reported a bill of the following title, viz:

H. B. 102. An Act creating the Kentucky State Fair Board; providing for its membership, their compensation and expenses, and prescribing its powers and duties; providing for liens on property of exhibitors and concessionaires to secure indebtedness due from them to said Board, and for the enforcement of such liens.

With the expression of opinion that said bill should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

#### ORDERS OF THE DAY

The Senate took up for consideration from the Orders of the Day a bill entitled, viz:

S. B. 2. An Act creating and establishing as a part of the primary system of highways of the Commonwealth of

Kentucky, a road from the mouth of Abner Fork of Left Beaver Creek, in Floyd County, Kentucky to mouth of Marshalls Branch of Long Fork Creek in Pike County, Kentucky.

Said bill reads as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That there is hereby established as a part of the primary system of State highways of the Commonwealth of Kentucky a road from the mouth of Abner Fork of Left Beaver Creek in Floyd County, Kentucky, up Left Beaver Creek to Weeksbury, Kentucky; thence up Caleb Fork of Left Beaver Creek to the head of same and continuing across the mountain and down Marshall's Branch of the Long Fork Creek to the mouth of said Marshall's Branch in Pike County, Kentucky.

Whereas Weeksbury, Kentucky, has a population of approximately 2,500 and said road is in bad repair, an emergency is declared to exist and this Act shall become effective immediately upon approval by the Governor.

Senator J. Lee Moore moved the Previous Question.

Whereupon, the President of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read for the third time by its title only.

Said motion was agreed to by a majority of the members elected.



Whereupon, the Constitutional provision as to the third reading at length of said bill having been dispensed with, said bill was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz:

Those who voted in the affirmative were—

Wm. R. Attkisson	Ralph Gilbert	Ira W. See
Aubrey Barbour	John M. Hall	Paul L. Sidebottom
Paul M. Basham	J. Joseph Hettinger	Jos. P. Tackett
H. Stanley Blake	H. Watt Hillman	J. E. Trager
Ollie J. Bowen	Wm. H. Jones, Jr.	E. T. Wesley
Leer Buckley	Leo King	Otis White
Dr. D. H. Bush	Strother Melton	O. C. Whitfield
Waller A. Crockett	E. C. Moore	B. M. Williams
Edwin C. Dawson	J. Lee Moore	J. M. Wolfenbarger
W. C. Farmer	Ray B. Moss	
Lee Gibson	James C. Rogers	—31

Resolved that the title thereof be as aforesaid.

Senator Gilbert moved that the vote by which said bill was passed be reconsidered and said motion lie on the table.

Said last named motion was agreed to.

Senator Gilbert moved that the Senate do now adjourn to meet again at 2 o'clock, p. m., Monday, January 31st, 1938.

Said motion was agreed to.

And then the Senate adjourned.

## MONDAY, JANUARY 31, 1938

The Senate convened and was called to order by Senator Edwin C. Dawson, President Pro Tem of the Senate, presiding in the absence of the Honorable Keen Johnson, President of the Senate and Lieutenant Governor of the Commonwealth.

The Senate was opened with prayer by the Reverend John T. Galloway, pastor of the First Presbyterian Church, Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names, viz:

Wm. R. Attkisson	J. Joseph Hettinger	Paul L. Sidebottom
H. Stanley Blake	H. Watt Hillman	J. E. Trager
Ollie J. Bowen	Leo King	Thomas O. Turner
Leer Buckley	J. W. McDonald	E. T. Wesley
Dr. D. H. Bush	Stanley B. Mayer	Otis White
Edwin C. Dawson	Strother Melton	O. C. Whitfield
W. C. Farmer	E. C. Moore	B. M. Williams
Lee Gibson	J. Lee Moore	J. E. Wise
Ralph Gilbert	Ray B. Moss	J. M. Wolfenbarger
John M. Hall	Ira W. See	

Senator T. O. Turner moved that the reading of the Journal of Thursday, January 27th, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.

Senator Gilbert moved that the rules be suspended and the privilege of the floor be extended to Mr. Carl Arnold and Mr. M. J. Parlin.

Said motion was agreed to unanimously.

Senator Gibson moved that the rules be suspended and

the privilege of the floor be extended to Mr. H. E. Calman of Beech Grove, Kentucky.

Said motion was unanimously agreed to.

Senator Bowen moved that the rules be suspended and the privilege of the floor be extended to Dr. J. L. Toll of Lawrenceburg, Kentucky.

Said motion was unanimously agreed to.

Senator T. O. Turner moved that leaves of absence be granted to all absent Senators.

Said motion was agreed to.

## INTRODUCTION OF BILLS

Bills and a resolution of the following titles were introduced, ordered printed and referred, as follows, viz:

By Senator Gilbert.

S. B. 147. An act relating to chiropractic amending and re-enacting Chapter 154 of the Acts of the General Assembly of 1932.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Chapter 154 of the Session Acts of the General Assembly of 1932, same being Section 8 of Chapter 123 of the Session Acts of the General Assembly of 1928, same relating to Chiropractic, be and the same is amended, and as so amended said Section of said Chapter shall read and be as follows, to wit:

Section 8. LICENSE. Such licensees shall be required to pay an annual renewal fee of three dollars.

All Licenses shall be signed by the president and secretary and shall be attested by the official seal of the Board. Licensees shall file their licenses with the County Clerk of the County in which they reside before practicing, and the said Clerk is directed to record same.

Each and every person who receives a license or who has received a license to practice Chiropractic in Kentucky shall pay to this Board on January First of each year a renewal fee of three dollars: Provided, that satisfactory evidence is presented to the Board that the said licensee in the year preceding the application for renewal attended the two-day educational programs as approved by the Board and conducted by the Kentucky Association of Chiropractors. The Secretary shall mail renewal notices to each licensee at least thirty days prior to January First of each year, and failure to pay such renewal fee shall operate as a forfeiture of the right of the licensee to practice his profession in this State: Provided, however, that he may be reinstated by the Board at its discretion upon payment of all fees due.

To Committee on Revenue and Taxation.

By Senator See.

S. B. 148. An act to amend and re-enact Section 4356t-7 of Carroll's Kentucky Statutes 1936 Edition relating to the purchase, location and relocation of rights of way by the State Highway Commission.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 4356t-7 of Carroll's Kentucky Statutes 1936 Edition be and the same is hereby amended and re-enacted

so that when so amended and re-enacted said section shall read as follows:

Section 4356t-7. Rights of way, condemnation; acquirement of private roads. No portion of the cost of acquiring any necessary land or right of way, except a temporary right of way, nor any part of any damages incurred, awarded or paid, shall be paid out of the state road fund or road and bridge fund, but all cost of acquiring any necessary land or right of way and any damages incurred, awarded or paid shall be paid by the county out of its general fund or out of funds voted and held by the county or its duly appointed and qualified road commissioners for the purpose of improving or constructing, either or both, the roads and bridges of the county, *except however, that after any highway has been located by the State Highway Commission and right of way procured by the county and accepted by the highway commission, then any additional right of way required by the said State Highway Commission by reason of change or relocation in said highway, shall be acquired by the State Highway Commission and the purchase price be paid out of the state funds.* The state highway commission is hereby authorized to institute any proceeding in the county court of the county where the land lies to have any right of way, temporary or permanent, condemned and the damages assessed. They may institute such suit or proceeding in the name of the Commonwealth, and the county attorney shall represent it. They shall have the power to agree with any landowner as to the value of the right of way and if the agreement reached is approved by the county attorney the fiscal court shall enter an order directing the payment of the amount agreed upon to the landowner, and a record of said agreement shall be spread upon the records of the county court. Any landowner may donate a right of way across his land for any road herein designated and shall execute a deed to the state highway commission for the use and benefit of the State of Kentucky for such right of way. Condemnation proceedings may be tried



at a special term of the county court called for the purpose after due notice has been given the owner and claimant of the land sought to be condemned.

The state highway commission shall have the right and it is hereby authorized and empowered to make agreements and contracts with the owners of private surfaced roads necessary to be incorporated in this system of state highways, where the owners are individuals or corporations, for the transfer and taking over of all the rights and interests of such private owners, for use and a part of this system of state highways; and they may agree upon the price and cost to be paid for such interest in such roads by the approval of the county judge and county attorney in each county in which such roads are located; and upon receipt of their certificate of such transfers and the total cost for same the state auditor shall draw his warrant upon the treasurer for payment of the amount so certified.

And said state highway commission may institute such condemnation or other legal proceedings in the proper courts as they may deem necessary for the taking over of such roads and interests of private owners therein. Or, if, in their judgment, they shall deem it best, they may procure the right of way, as hereinbefore provided for, adjacent to, and alongside of such surfaced roads, crossing the same from one side to the other when he deems proper.

And nothing in this act contained shall be construed to mean that the state or federal government shall pay for any interest that any county may own in such roads, or that any county shall pay for this interest owned by individuals or corporations in such roads.

To Committee on Roads & Highways.

By Senator Bowen.

S. B. 149. An act abolishing West Kentucky Industrial College, located at Paducah, and providing for the trans-

fer to the Kentucky State Industrial College, located at Frankfort, of all the records of the West Kentucky Industrial College, located at Paducah.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That the West Kentucky Industrial College, located at Paducah, be and the same is hereby abolished.

§ 2. The records of the West Kentucky Industrial College, located at Paducah, including the records of the register with respect to students, grades, courses completed, graduates and related matters, and the minutes of the faculty and committees thereof, shall be transferred to the Kentucky State Industrial College, located at Frankfort.

To Committee on Kentucky Statutes No. 1.

By Senator Gilbert.

S. B. 150. An act to provide for an enlarged use of the public records of the Commonwealth of Kentucky by providing for an increased distribution of such records to the Library of Congress, and amending and re-enacting section 3956b-1, Carroll's Kentucky Statutes, 1930, and section 2421 and 2426, Carroll's Kentucky Statutes, 1933 supplement.

Said bill is as follows, viz:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That section 3956b-1, Carroll's Kentucky Statutes, 1930, be, and the same is hereby amended and re-enacted, so that said section when so amended and re-enacted shall read as follows:

§ 3956b-1. Reports of departments, commissions and agencies to be made to governor.—That all annual and bien-

nial reports now required by law to be made by the various departments, agencies and commissions of the state government shall be filed by such departments, agencies and commissions with the governor, and a copy thereof in the office of the secretary of state, which shall be preserved as a public record. *And further that two copies each of all such reports, other publications and maps as are issued by the various departments, agencies and commissions of the state government shall be distributed to the Library of Congress at Washington, D. C.*

§ 2. That section 2421, Carroll's Kentucky Statutes, 1933 supplement, be and the same is hereby amended and re-enacted, so that said section when so amended and re-enacted shall read as follows:

§ 2421. Persons entitled to copy of session acts.—The following persons by virtue of their respective offices, and the following libraries shall be entitled to copies of the session acts of the General Assembly hereafter published, to-wit: Members of the General Assembly which passed such acts, treasurer, secretary of state, registrar, circuit judge, Commonwealth's and county attorneys, the sheriff of each county, circuit court clerk, county court clerk, county judge and justices of the peace, one copy each; attorney general, four copies; governor and auditor, two copies; librarian, for the use of the senate, ten copies, and for the use of the house of representatives, thirty copies, the law library of each county, one copy, the federal judge of each district of Kentucky, and the United States Circuit Court of Appeals at Cincinnati, one copy each, the Library of Congress, *eight copies*, and the Supreme Court of the United States, three copies, Kentucky Historical Society, two copies.

§ 3. That section 2426, Carroll's Kentucky Statutes, 1933 supplement, be and the same is hereby amended and re-enacted, so that said section when so amended and re-enacted shall read as follows:

§ 2426. Kentucky reports; who entitled to copy.—One

copy of the reports of the decisions of the court of appeals which may be hereafter published and one copy of each pamphlet of the weekly advance sheets, as soon as the same are published and ready for distribution shall be delivered without cost to, the governor, each judge and commissioner of the court of appeals; each circuit judge, the judge of each Federal Court of Kentucky, the librarian of the United States Circuit Court of Appeals, at Cincinnati, the county library of each county, and *eight copies of each including the pamphlets of the advance sheets* shall be so sent to the Library of Congress, and to the Kentucky Historical Society, two copies.

§ 4. That the above provisions of this Act shall be made in recognition of benefits received through receipt at depository, libraries and elsewhere in the state of Kentucky of public documents of the United States under the provisions of federal law.

To Committee on Printing.

By Senator J. Lee Moore.

S. Res. 38. Resolution authorizing C. C. Law to sue the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

WHEREAS, in the year of 1937, C. C. Law, while operating his automobile on a State Highway in Simpson County, Kentucky, wrecked and damaged said car by driving into machinery or other obstructions improperly left on the right-of-way of the State Highway by employes of the State Highway Department in the State's business, and

WHEREAS, said wreck and consequent damage to the automobile of the said Law was not the fault of the said C. C. Law, but was the fault of the employes of the Highway Department of the Commonwealth of Kentucky.

*Therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the said C. C. Law be, and he is hereby, authorized

and permitted to sue the Commonwealth of Kentucky, and/or its agent, the Department of State Highways in the Simpson Circuit Court for damages not exceeding the sum of \$400.00 for damages sustained by him to his personal property by reason of the negligence of the employes of the State of Kentucky, and/or its agent, the Department of State Highways, if any, under the same measure of recovery as in any other civil actions.

In the event any judgment is recovered by said C. C. Law in said suit, same shall be paid by the Treasurer of the Commonwealth of Kentucky on warrant from the auditor.

To Committee on Kentucky Statutes No. 1.

### CALENDAR

The Senate took up for consideration from the Calendar a bill entitled, viz.:

H. B. 102. An Act creating the Kentucky State Fair Board; providing for its membership, their compensation and expenses, and prescribing its powers and duties; providing for liens on property of exhibitors and concessionaires to secure indebtedness due from them to said Board, and for the enforcement of such liens.

Senator Buckley moved that the Constitutional provision as to the second reading at length of said bill be dispensed with and the same be read for the second time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the second reading at length of said bill having been dispensed with, said bill was read the second time by its title only and

Ordered placed in the Orders of the Day.



## ORDERS OF THE DAY

The Senate took up for consideration from the Orders of the Day a bill of the following title, viz.:

S. B. 58. An Act to permit the transfer of assets of a bank to another bank, in case of emergency, by the board of directors with the consent of the Director of the Division of Banking, providing for the publication of notice of such transfer; providing for the payment of fair cash value to aggrieved shareholder, and the time and manner of objection of such aggrieved shareholder; and providing for the repeal of all laws and parts of laws in conflict with this Act.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Whenever in the opinion of the Director of the Division of Banking and of a majority of the members of the respective boards of directors of the banks concerned therein, an emergency exists warranting an immediate transfer of such assets and liabilities, the board of directors of any bank, by a majority vote, may transfer the assets and liabilities of such bank to another bank or banks, without the vote or approval of the stockholders of each such bank, party to such proposed transfer. No such transfer shall be made without the consent of the Director of the Division of Banking and each bank, party to such transfer, shall file, or cause to be filed with the Director of the Division of Banking, certified copies of all proceedings had by its board of directors, which proceedings shall contain a complete copy of the agreement made and entered into by and between such banks. Notice of a transfer of assets and liabilities made pursuant to the provisions of this Act shall be given by publication in a newspaper of general circulation, in the county where the principal office of each bank, party thereto, is located. Such notice shall be published once each week for four consecutive

weeks immediately following such transfer and certified copy thereof shall be filed in the office of the Director of the Division of Banking.

§ 2. Any shareholder of the transferror bank who shall deem himself aggrieved by reason of such transfer, shall be paid the fair cash value of his shares as of the day before the day on which the vote of the board of directors was taken authorizing such transfer, excluding from such fair cash value any appreciation or depreciation in consequence of the transfer which entitled him to such relief, if such shareholder within twenty days after the day on which such vote was taken shall object in writing to such transfer and shall demand in writing the payment of such fair cash value of his shares. Such payment shall be made within thirty days after such fair cash value is agreed upon or determined. Any shareholder who does not object and demand in writing the payment of the fair cash value of his shares in the manner and at the time hereinbefore provided shall be bound by the vote of a majority of the directors of such bank.

§ 3. All laws and parts of laws in conflict with this Act are hereby repealed to the extent of such conflict.

Senator Gibson offered the following amendment to said bills, viz.:

Amendment No. 1. Amend Senate Bill No. 58 on Page 1, Section 1, Line 5, by striking the word "majority", between "a" and "vote", therefrom and inserting in lieu thereof the word "two-thirds".

Said amendment was agreed to.

Senator McDonald then offered the following amendment to said bill, viz.:

Amendment No. 2. Amend Senate Bill No. 58 by strik-

ing from Section 1 lines 6 and 7, the following: "Without the vote of approval of the stockholders of each such bank".

The yeas and nays being taken on the adoption of said last named amendment to said bill were as follows, viz.:

Those who voted in the affirmative were—

W. C. Farmer	Strother Melton	J. M. Wolfenbarger
J. Joseph Hettinger	E. T. Wesley	
J. W. McDonald	J. E. Wise	—7

Those who voted in the negative were—

H. Stanley Blake	John M. Hall	Ira W. See
Ollie J. Bowen	H. Watt Hillman	Thomas O. Turner
Dr. D. H. Bush	J. Lee Moore	Otis White
Lee Gibson	Ray B. Moss	—11

Whereupon, said amendment was disagreed to.

Senator Gibson moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill having been dispensed with, and the same having been engrossed, said bill was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill, in accordance with the provision of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

H. Stanley Blake	J. Joseph Hettinger	J. E. Trager
Ollie J. Bowen	H. Watt Hillman	Thomas O. Turner
Leer Buckley	Leo King	E. T. Wesley
Dr. D. H. Bush	Stanley B. Mayer	Otis White
W. C. Farmer	Strother Melton	O. C. Whitfield
Lee Gibson	E. C. Moore	B. M. Williams
Ralph Gilbert	Ray B. Moss	J. E. Wise
John M. Hall	Ira W. See	J. M. Wolfinbarger

—24

Voting in the negative—

J. W. McDonald	—1
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Resolved that the title thereof be as aforesaid.

Senator Gibson moved that the vote by which said bill was passed be reconsidered and said motion lie on the table.

Said last named motion was agreed to.

Senator E. C. Moore moved that Master Dan Woodward be made an Honorary Page of the Senate for the day.

Said motion was agreed to.

The Senate then took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 95. An Act amending and re-enacting Section 2242 of Carroll's Kentucky Statutes, 1936 Revision, relating to the compensation of Jury Commissioners.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That, Section 2242 of Kentucky Statutes, 1936 revision, be amended and when so amended shall read as follows:

Section 2242. Time commissioners may remain in session; compensation; reconvening; not to be appointed succeeding year.—The Commissioners shall remain in session not longer than five days, except that in counties having a population of over fifty thousand thousand, they may remain in session ten days, and shall each receive for his service three (\$3.00) dollars per day for the time actually engaged, the claim for which shall be certified by the judge appointing him and paid by the state treasurer upon the voucher of the auditor of the state: Provided, however, That counties containing a city of the first class the board of magistrates or the fiscal court of any such county may supplement the compensation of the commissioners as paid by the state by allowing and paying to each of said commissioners not exceeding three dollars (\$3.00) per day for the time actually engaged, the whole compensation received by any commissioner not to exceed the sum of fifty dollars (\$50.00) in any one year. If for any cause, either of the persons selected as a commissioner cannot serve, or having commenced can not complete his labors, the judge appointing him may appoint another person of like qualifications in his place. If, at any time, it becomes apparent to the judge of any court that the names in the drum wheel case for said court will be exhausted before the next annual selection of commissioners, the judge, by an order entered of record, shall reconvene the commissioners, who shall select and place in said drum or wheel case, as hereinbefore provided, the number of names of qualified grand and



petit jurors stated in the order of the judge reconvening them, and the judge may, if he deem it necessary, require by an order of the court the attendance of one of said commissioners at the time that the judge shall make up the lists of juries for his court, as hereinafter provided. Neither of them shall be appointed for the next year.

Senator E. C. Moore moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows:

Those who voted in the affirmative were—

Wm. R. Attkisson	Lee Gibson	Leo King
Ollie J. Bowen	Ralph Gilbert	J. W. McDonald
Leer Buckley	J. Joseph Hettinger	Strother Melton
W. C. Farmer	H. Watt Hillman	J. Lee Moore

Ray B. Moss	E. T. Wesley	B. M. Williams
Ira W. See	Otis White	J. E. Wise
J. E. Trager	O. C. Whitfield	J. M. Wolfenbarger

—21

Those who voted in the negative were—

H. Stanley Blake	John M. Hall	Thomas O. Turner
Dr. D. H. Bush	E. C. Moore	—5

Resolved that the title thereof be as aforesaid.

Senator White moved that the vote by which said bill was passed be reconsidered and said motion lie on the table.

Said last named motion was agreed to.

The Senate then took up for consideration from the Orders of the Day a bill of the following title, viz.:

S. B. 56. An Act to repeal and re-enact Section 2043-12, Carroll's Kentucky Statutes, 1930 Edition, Supplement 1933, the same being Section 12 of Chapter 68 of the Acts of 1930, repealed, amended, and re-enacted by Chapter 54 of the Acts of 1936 and entitled, "An Act concerning the manner of commitment of incompetent veterans of the World War who are beneficiaries of World War Veterans' Act as amended; and regulating the appointment, defining the duties and governing the actions of guardians and committees for beneficiaries of the World War Veterans' Act, as amended," and declaring an emergency to exist.

Senator Gilbert moved that said last named bill be allowed to retain its place in the Orders of the Day.

Said motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 83. An Act providing that banks incorporated under the laws of any other state shall not do any business in this Commonwealth, except to lend money; and providing for the repeal of all laws and parts of laws in conflict with this Act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That no bank or banking institution incorporated under the laws of any other state shall be permitted to receive deposits or transact any banking business of any kind in this Commonwealth, except to lend money.

§ 2. All laws and parts of laws in conflict with this Act are hereby repealed to the extent of such conflict.

Senator Gibson moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read for the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read for the third time by its title only and passed,

The yeas and nays being taken on the passage of said

bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

H. Stanley Blake	John M. Hall	Ira W. See
Ollie J. Bowen	J. Joseph Hettinger	Thomas O. Turner
Leer Buckley	H. Watt Hillman	E. T. Wesley
Dr. D. H. Bush	Leo King	Otis White
W. C. Farmer	Stanley B. Mayer	O. C. Whitfield
Lee Gibson	Strother Melton	B. M. Williams
Ralph Gilbert	Ray B. Moss	—20

Those who voted in the negative were—

Wm. R. Attkisson	E. C. Moore	J. E. Wise
J. W. McDonald	J. Lee Moore	J. M. Wolfenbarger
		—6

Resolved that the title thereof be as aforesaid.

Senator Gibson moved that the vote by which said bill was passed be reconsidered and said motion lie on the table.

Said last named motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 80. An Act to amend and re-enact Section 583 of Carroll's Kentucky Statutes, 1936 Edition, relating to the indebtedness or obligation of a person, company or firm to a bank, the highest amount permitted, certain bills of exchange not included.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section Five Hundred Eighty-Three (583) of Car-

roll's Kentucky Statutes, One Thousand Nine Hundred Thirty-Six (1936) Edition, shall be and the same is hereby amended and re-enacted so that, when thus re-enacted, it shall read as follows, to-wit:

No bank shall permit any of its stockholders, or any person, company or firm, including in the liability of the company or firm the liability of the individual members thereof, directly or indirectly, to become indebted *and/or obligated as guarantor or surety* to it in a sum exceeding twenty per cent of its capital stock actually paid in, and its actual amount of surplus, unless such borrower, *guarantor or surety*, pledge with it good collateral security, or execute to it a mortgage upon real or personal estate, which at the time is of more than the cash value of such loan, indebtedness *and/or obligation* above all other incumbrances, and if the borrower is a director or officer of such bank he shall not be permitted to become indebted *and/or obligated as guarantor or surety* to it in excess of ten per cent of its paid-up capital stock, without securing the excess by the mortgage or pledge of real or personal property double in value the amount of such excess; and in no event shall the indebtedness *and/or obligation* of any person, company or firm, including in the liability of the company or firm the liability of the individual members thereof, exceed thirty per cent of its paid-up capital and actual surplus. *Any loan made, and/or obligation entered into, for the benefit of a person, company or firm shall be included in the total liabilities of the person, company or firm.* Provided that the discount of bills of exchange drawn against actually existing value and the purchase or discounting of commercial or business paper actually owned by the person negotiating the same shall not be considered as borrowed money within the meaning of this section in fixing the limit of indebtedness, *and/or obligation* of any person, firm or corporation, selling or negotiating said paper to the bank.

Senator T. O. Turner moved the Previous Question.



Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read for the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, same was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	J. Joseph Hettinger	Ira W. See
H. Stanley Blake	H. Watt Hillman	J. E. Trager
Ollie J. Bowen	Leo King	Thomas O. Turner
Leer Buckley	J. W. McDonald	E. T. Wesley
Dr. D. H. Bush	Stanley B. Mayer	Otis White
W. C. Farmer	Strother Melton	O. C. Whitfield
Lee Gibson	E. C. Moore	J. E. Wise
Ralph Gilbert	J. Lee Moore	J. M. Wolfenbarger
John M. Hall	Ray B. Moss	—26

Resolved that the title thereof be as aforesaid.

Senator Gibson moved that the vote by which said bill was passed be reconsidered and said motion lie on the table.

Said last named motion was agreed to.

Senator Attkisson moved that the rules be suspended and a bill of the following title, viz.:

H. B. 92. An Act relating to the transfer of school districts or parts of districts.

Be taken from its place in the Orders of the Day for the purpose of immediate consideration by the Senate.

Said motion was agreed to by a majority of the members elected.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That boards of education in independent school districts in incorporated cities, where the independent district boundaries extend beyond the city boundaries, may by joint and concurrent action with the county board of education of the county wherein the independent district is located, transfer to the county district any portion of the area of the independent district outside the corporate limits of the city.

Provided, however, that no transfer shall be made if such transfer would reduce the number of census pupils of the independent district to less than 250 in number.

Senator Attkisson moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Attkisson moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill having been dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were:

Wm. R. Attkisson	J. Joseph Hettinger	J. E. Trager
H. Stanley Blake	H. Watt Hillman	Thomas O. Turner
Ollie J. Bowen	Leo King	E. T. Wesley
Leer Buckley	J. W. McDonald	Otis White
Dr. D. H. Bush	Stanley B. Mayer	O. C. Whitfield
W. C. Farmer	Strother Melton	B. M. Williams
Lee Gibson	J. Lee Moore	J. E. Wise
Ralph Gilbert	Ray B. Moss	J. M. Wolfenbarger
John M. Hall	Ira W. See	—25

Resolved that the title thereof be as aforesaid.

Senator Attkisson moved that the vote by which said bill was passed be reconsidered and said motion lie on the table.

Said last named motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 79. An Act to amend and re-enact Section 610 of

Carroll's Kentucky Statutes 1936 Edition, relating to the indebtedness or obligation of a person, company or firm to a trust company; and providing for a change in the maximum amount permitted.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section six hundred ten (610) of Carroll's Kentucky Statutes, one thousand nine hundred thirty-six (1936) Edition, be and the same is hereby amended and re-enacted, so that, when thus re-enacted it shall read as follows, to-wit:

No trust company shall permit any of its stockholders, or any person, company or firm, including in the liability of the company or firm the liability of the individual members thereof, directly or indirectly, to become indebted *and/or obligated as a guarantor or surety* to it in a sum exceeding *twenty* per cent. of its capital stock actually paid in, and surplus actually on hand, unless such borrower deposits with it good collateral security, or executes to it a mortgage upon real or personal estate, which, at the time, is of more than the cash value of such loan, *indebtedness and/or obligation* above all other incumbrances, and if the borrower is a director or officer of such company, he shall not be permitted to become indebted *and/or obligated as guarantor or surety* to it in excess of ten per cent of its paid-up capital, without securing the excess by the mortgage or pledge of real or personal property, double in value the amount of such excess, and in no event shall the indebtedness *and/or obligation* of any person, company or firm, including in the liability of the company or firm the liability of the individual members thereof, exceed *thirty* per cent. of its paid-up capital and actual surplus. *Any loan made, and/or obligation entered into for the benefit of a person, company or firm shall be included in the total liabilities of the person, company or firm.*

Senator McDonald offered the following amendments to said bill, viz.:

Amendment No. 1. Amend Senate Bill 79 by striking from line 9 of page 1 the word "twenty" and inserting in lieu thereof the word "ten".

Amendment No. 2. Amend Senate Bill 79 by striking from line 21, page 2, the word "thirty" and inserting in lieu thereof the word "twenty".

Said amendments were each and severally disagreed to.

Senator Gibson moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:



Those who voted in the affirmative were—

Wm. R. Attkisson	H. Watt Hillman	Thomas O. Turner
H. Stanley Blake	Leo King	E. T. Wesley
Ollie J. Bowen	J. W. McDonald	Otis White
Leer Buckley	Stanley B. Mayer	O. C. Whitfield
Dr. D. H. Bush	Strother Melton	B. M. Williams
W. C. Farmer	E. C. Moore	J. E. Wise
Lee Gibson	J. Lee Moore	J. M. Wolfenbarger
John M. Hall	Paul L. Sidebottom	
J. Joseph Hettinger	J. E. Trager	

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Resolved that the title thereof be as aforesaid.

Senator Gibson moved that the vote by which said bill was passed be reconsidered and said motion lie on the table.

Said last named motion was agreed to.

### HOUSE MESSAGE

A message was received from the House announcing that they had passed Bills which originated in that body of the following titles:

H. B. 110. AN ACT to amend, revise and re-enact Section 115 of Chapter 182 of the Acts of 1893 now Section 1243 Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to Petit larceny and providing, any person upon second conviction shall be confined in the county jail not less than double the time of the first conviction, and confinement in the penitentiary for not less than one nor more than three years upon a third conviction.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That section 115 of Chapter 182 of the Acts of 1893 now

Section 1243 Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby amended, revised and re-enacted so that said section when so amended, revised and re-enacted shall read as follows:

(1) Petit larceny—Any person, who shall steal a hog of less value than four dollars, or be guilty of the larceny of money, goods, chattels, or other property of less value than Twenty (\$20.00) Dollars shall be confined in the county jail for not less than one nor more than twelve months; provided, every person convicted a second time under this Act shall be confined in the county jail not less than double the time of the first conviction, and if convicted a third time under this Act, he or she shall be confined in the penitentiary for not less than one nor more than three years.

Ordered that said bill be printed and referred to the Committee on Criminal Law.

H. B. 103. An act to repeal, and re-enact, Sections ~~73~~-1 to 73-15 inclusive, Carroll's Kentucky Statutes, 1936 Edition (Chapter 168 of the Acts of the 1930 General Assembly of the Commonwealth of Kentucky) regulating the Practice of Architecture in the Commonwealth of Kentucky; creating a State Board of Examiners and Registration of Architects; providing for appointment of the members thereof; describing the powers and duties of the said Board; providing for the registration and examination and issuance of certificates to qualified registered architects; providing for exemptions to this Act; describing what constitutes the practice of architecture; providing for renewals of certificates and for suspensions, revocations and refusal to renew; providing for the right of trial in cases of suspension or revocation and for right of appeal from the Board's decisions therein; providing for penalties for violation of the provisions of this Act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. *Registration of Architects Required.*—In order to safeguard life, health and property and promote public welfare, it shall be hereafter unlawful for any person or persons to practice architecture in the Commonwealth of Kentucky, or to advertise or circulate any sign, card or other device, or use any words, letters or figures to indicate that the person using them is an architect or qualified to practice architecture, or to use the title of “Architect” or “Registered Architect,” or any form of the word Architect, or to in any way represent their services or their work as equivalent of that of a duly qualified and registered architect, or to prepare plans or specifications for the erection or alterations of buildings; unless, and until, he or she shall have qualified and obtained registration as provided for in this Act.

§ 2. *Creating and Establishing a State Board of Examiners and Registration of Architects.*—For the purpose of carrying out the provisions of this Act, there is hereby created and established a State Board of Examiners and Registration of Architects to consist of five (5) members who shall be appointed by the Governor. All members of the present State Board of Examiners and Registration of Architects shall hold office as members of the new Board until the expiration of their respective terms of office.

Thereafter, as the terms of said members expire, all members shall be appointed as hereafter provided.

§ 3. *Nominations and Appointments of Board Members.*—All appointments made at the expiration of the terms of office of the present members shall be made by the Governor from lists of three (3) nominees selected by the duly constituted Chapter or Chapters of the American Institute of Architects in Kentucky. All nominees shall have been in the active practice of architecture for a period of not less than ten (10) years, shall have been citizens of the Common-

wealth of Kentucky for at least five (5) years immediately preceding their nomination, and shall be duly registered as architects in this State. Provided, however, that if, in the future, there shall be established at the University of Kentucky a school or college or department of architecture recognized by the Board, then one of said nominees may be the head of such school of architecture.

Each member of the Board thus appointed shall hold office for a period of five (5) years, or until his successor shall have been duly qualified and appointed. Provided, however, that one of the two terms of office expiring in the year nineteen hundred and thirty-eight (1938) shall first be filled by one appointment for a four (4) year term only, so that thereafter one term shall expire each year.

Any vacancy occurring in the membership of said Board before the expiration of the term of office shall be filled for the unexpired term by appointment, by the Governor, of one of the remaining nominees on the list of three (3) last submitted. If, in filling vacancies, none of the nominees on the list last submitted are available for said appointment, then such appointments shall be made from a list of two (2) additional qualified architects nominated and submitted by the Board.

Any member of said Board may be removed from office for inefficiency, neglect of duty, misconduct or incapacity, by the Governor, or by petition to the Governor signed by more than half of the architects registered and resident in the Commonwealth of Kentucky at the time of submission of the petition.

§ 4. *Oath of Office.*—All members of said Board shall, before entering upon the discharge of their duties, subscribe to and file with the Secretary of State of Kentucky, the constitutional oath of office.

§ 5. *Non-effect on Actions of the Existing Board.*—It is the intention of this Act to continue the now existing State Board of Examiners and Registration of Architects and to

clarify and modify its powers and duties. Nothing herein contained shall be held or construed to affect the force or validity of any action of the now existing Board prior to the time this Act becomes law, or to change the personnel of said Board except by appointment as herein provided, at the expiration of the regular terms of office.

It shall be the duty of the Board to continue the use of data, records, books and files in such manner as to make a continuous and perpetual record of the State Board of Examiners and Registration of Architects heretofore created, in so far as the provisions of this Act justify and allow for such continuation.

§ 6. *Office and Quarters of the Board.*—Upon request of the Board to the proper authority, suitable quarters and office space shall be provided for its use by the Commonwealth of Kentucky at Frankfort. The Board may, however, at its discretion, provide its own quarters, in which case it shall bear the expenses incident to their maintenance.

§ 7. *Officers of the Board.*—The officers of the existing Board shall continue to hold their respective positions at the passage of this Act, and until the expiration of the period of which they were elected by the Board.

A President, Secretary and Treasurer shall thereafter be elected at the annual meeting, the date of which shall be fixed by the Board in the month of January of each year, and shall hold office for one year. The offices of Secretary and Treasurer may be held by the same person.

§ 8. *Books, Records, Seal and Quorum of the Board.*—The Board hereby created shall keep a complete record of its proceedings and an accurate list of all applications made, certificates issued, certificates revoked, expired or suspended, and a complete record of all cash received and disbursed, and shall make a report annually to the Governor for each year of activity.

Said Board shall adopt and provide an official seal with a band inscribed: "State Board of Examiners and Registration



of Architects of Kentucky," with the Coat of Arms of the Commonwealth of Kentucky in the center. All certificates issued, as provided for in this Act, shall be signed by the President and the Secretary of the Board and bear the imprint of said official seal.

Three (3) members of the Board shall constitute a quorum, but action shall not be deemed to have been taken upon any question unless there are at least three (3) votes in accord.

§ 9. *The Power to Make Rules, Regulations and By-Laws.*—The Board shall have the power to make all necessary Rules, Regulations and By-Laws for conducting examinations, governing the method and time of filing applications, regulating the election of nominees for appointment to the Board, concerning matters of inter-state organizations and meetings, providing for general conduct of business of the Board; and said Board shall have the power to make, adopt and enforce all reasonable Rules and Regulations, not inconsistent with the provisions of this Act, for carrying out and enforcing the objects and purposes of the said Act.

§ 10. *Who May be Known as an Architect or Practice Architecture.*—Only those who have qualified and received a Certificate of Registration issued by this Board shall be permitted to practice architecture within the Commonwealth of Kentucky, or to use the title of "Architect" or any words, letters, figures, signs, cards or other means to indicate that the one using them is an architect, or to advise or indicate in any manner whatever that they are qualified to perform the work of an architect.

§ 11. *The General Practice of Architecture Defined.*—The practice of architecture is: The scientific, aesthetic and orderly co-ordination of all the processes which enter into the production of a completed building; performed through the medium of unbiased plans, specifications, supervision of construction, preliminary studies, consultations, evaluations, in-

vestigations, contract documents, and oral advice and direction.

§ 12. *An Architect Defined*.—An Architect is: A person who is technically and legally qualified to practice architecture.

§ 13. *Practice of Architecture in Kentucky Defined*.—The practice of architecture in Kentucky is hereby defined to be: The act of planning, designing, specifying, supervising and giving general administration and responsible direction to the erection, enlargement or alteration of any building, or any part thereof, located within the boundaries of this State; regardless of whether the persons engaged in such practice are residents of Kentucky or have their principal office or place of business in this or another state or country, regardless of whether such persons are performing one or all of these duties, or whether they are performed in person or as the directing head of an office or organization performing them.

§ 14. *Corporations Cannot Register*.—The practice of architecture is a professional service, admission to which shall be determined upon a basis of individual, personal qualifications. No firm, company, partnership or corporation can be registered.

§ 15. *Moral and Ethical Qualifications of Applicants*.—The Board shall cause an investigation to be made of the personal character and practice of each applicant. Those found to be morally or ethically unqualified for the practice of architecture in Kentucky shall be refused admission to examination and denied registration.

§ 16. *Fraudulent Applications*.—The Board may refuse to renew, or may suspend or revoke, any certificate of registration obtained by false swearing or any misrepresentations made in applying for registration or examination, and may refuse to renew or grant registration to any applicant whose application is found to contain such false evidence or information.

§ 17. *Authorship Defined.*—The author or authors of a set of plans or specifications are those in responsible charge of their preparation, whether made by them personally or under their immediate supervision.

§ 18. *Architects, or Those Practicing Architecture, Shall Use Their True Title.*—It shall be unlawful for any architect, or any person practicing architecture, to seek to avoid the provisions of this Act by the use of any other than the title “Architect,” and no such persons shall practice or offer to practice architecture in this State, or present themselves as qualified for such practice unless, and until, they have duly qualified and been registered as provided in this Act.

§ 19. *Non-Registered Men Shall Not Claim Equivalent Service.*—Persons not registered in the Commonwealth of Kentucky as Architects shall not claim nor represent their services or work as equivalent to those of a duly qualified registered architect, or that they are qualified for any branch or function of architectural practice, even though no form of the title of “Architect” is used.

§ 20. *Liability of Representatives of Non-Registered persons.*—It shall be hereafter unlawful for any person firm or corporation to seek to avoid the provisions of this Act by having a representative or employee seek architectural work in their behalf, or for them, unless, and until, such persons have duly qualified and received registration; otherwise both those represented and the representative, the employer and employee, shall be deemed equally guilty of violation of this Act. Solicitation of architectural work shall be construed as offering to practice architecture and it shall be unlawful for any but registered architects to do so.

§ 21. *Certificate, License and Registration:*—Whenever the provisions and requirements for registration under the provisions of this Act have been fully complied with and fulfilled by an applicant, the Board shall issue a Certificate of Registration to said successful applicant as a Registered Architect. Said Certificate shall be synonymous with regis-

tration and shall have the effect of a license to the person to whom it is issued to practice architecture in this State, subject to the provisions of the Act and the Rules and Regulations of the Board. The unauthorized use or display of a Certificate of Registration shall be unlawful.

§ 22. *Exemptions*.—Any resident of the Commonwealth of Kentucky may make an occasional or incidental set of plans or specifications for any of the following:

(a) Any building, enlargement or alteration costing less than four thousand dollars (\$4,000.00) where the space enclosed does not exceed 20,000 cubic feet by the standards recommended by the American Institute of Architects for cubic measure of buildings.

(b) Any building, enlargement or alteration outside the corporate limits of any city, town or village which is to be used for farm purposes and costs less than ten thousand dollars (\$10,000.00).

(c) Any single-family residence, of any size or cost, which is to be used by the owner personally as his own home.

(d) Any remodeling or alterations, regardless of cost, to existing buildings, not involving structural changes, and which do not include additions costing four thousand dollars (\$4,000.00) or more or contain an enclosed space of greater than 20,000 cubic feet by the standards recommended by the American Institute of Architects for cubic measure of buildings.

Provided, however, that the author of such plans and specifications shall not be in the continuous practice of architecture without being registered, shall in no manner advertise for or solicit such work, shall not use any form of the title of "Architect," shall not claim his or her services to be equivalent to those of a registered architect or that he is qualified for such service or violate any other provision of this Act; and all plans, specifications and related documents prepared under these exemptions shall be signed with the name of the



author and the true title of his or her principal occupation, in a manner which may be prescribed by the Board.

Nor shall anything in this Act prevent draftsmen, students, clerks-of-works, superintendents, engineers and other employees of those lawfully engaged in the practice of architecture under the provisions of this Act, from acting under the instructions, control or supervision of their employers.

Nor shall anything in this Act prevent Professional Engineers who are legally engaged in the practice of their profession in Kentucky, from making plans incidental to their work when same are for projects primarily engineering in character, such as water works, bridges, sewage disposal plants and buildings in which the layout of machinery and its design by said engineers is the principal object of the project. The mere planning of location of machinery designed by others shall not be construed to classify a building as an engineering project even though such machinery is the principal element to be housed therein.

Architects acting solely as employees of the United States of America shall be exempted from the provisions of this Act.

§ 23. *Use of the Titles "Landscape Architect," "City Planning Architect," "Naval Architect," "Architectural Engineer," etc.*—The Board shall have the power to permit the use of any of the above or similar titles to any who present evidence satisfactory to the Board that they are reasonably qualified for such service and said Board shall have the power to provide Rules and Regulations governing proof necessary to secure permission for the use of any such title and may grant, or refuse, applications therefor or require relinquishment of permissions granted.

Provided, however, that no such title shall be used to evade the requirements of registration for the practice of architecture as required under this Act, and no holder thereof shall practice architecture or offer to practice architecture or claim to be qualified for such practice. Nor shall they use any



other form of the word architect than that duly authorized by the Board.

§ 24. *Requirements for Entrance to Examinations.*—To be qualified to enter the examination to practice architecture in Kentucky, an applicant shall be at least twenty-five (25) years of age, a citizen of the United States of America, of good moral character, and a graduate of a High School with a four year course approved by the Board, or the equivalent thereof, and have at least nine (9) years of practical experience or, in lieu thereof, three (3) years of such experience plus graduation from a school or college of architecture approved by the Board. All practical experience must meet the approval of the Board as to its value in preparing the candidate for entrance to the examination.

§ 25. *The Examinations.*—The Board shall have the power to make all necessary rules and regulations governing the time, place and method of giving examinations to all applicants and the grading thereof; and said Board shall have the power to provide for a reasonable division in the various classes of applicants and the examination to be taken in each class; said examinations to consist of such technical and professional subjects and oral questioning as the Board may, from time to time, prescribe.

§ 26. *Architects Registered When This Law Passed.*—All architects registered at the time this law takes effect shall be automatically registered under the provisions hereof, subject however, to all the provisions herein set forth as to future requirements.

Certificates of Registration held by such persons in good standing shall have the same force and effect as though issued after the passage of this Act.

§ 27. *Reciprocity.*—The Board shall have the power to set up all rules and regulations governing the matter of reciprocity with other states and countries.

§ 28. *Annual Renewal of Registration.*—Every holder of a Certificate of Registration shall renew same annually,

at such time as the Board may fix, by payment of the fee hereinafter provided.

The registration of any architect who fails to pay the Annual Renewal Fee within the time provided shall automatically expire upon the last day of the period of grace allowed; after which he shall not be considered or known as an architect, or practice architecture, or violate any other provisions of this Act.

Thereafter, the Board may require any such person to apply for registration in the same manner required for any other applicant, or may reinstate an expired Certificate of Registration upon payment of the Annual Renewal Fee plus an amount to be fixed by the Board which shall not exceed the sum of two dollars (\$2.00) per month for all time elapsed since the time the Renewal Fee became due.

Any Certificates which expire after an allowed period of grace shall, for matter of record and otherwise, take effect as of the day upon which the Renewal Fee was first due.

§ 29. *Refusal to Renew, Suspension and Revocation of Certificates.*—The Board may refuse to renew or grant, or may suspend for a period or revoke, any Certificate of Registration for the practice of architecture in Kentucky for any one or any combination of the following causes:

(a) Practice in violation of this Act, or of the Rules and Regulations of the Board under the provisions of this Act;

(b) Securing a Certificate of Registration by fraud or misrepresentation;

(c) Payment of any money, except the regular fees provided for, to secure a Certificate of Registration;

(d) False impersonation of a practitioner or former practitioner of a like or different name, or practicing under an assumed, fictitious or corporate name other than that of the registrant;

(e) Conviction of any felonious charge in any court.

(f) Aiding or abetting, in the practice of architecture

or other provisions herein contained, any person not duly authorized to practice architecture in Kentucky;

(g) Fraud, deceit, gross negligence or misconduct in the practice of architecture;

(h) Gross incompetency or recklessness in the construction or designing of buildings;

(i) Affixing, or permitting to be affixed, the name or seal of any registrant to plans, specifications, drawing or related documents which were not prepared by said registrant under his personal supervision by his regularly employed subordinates;

(j) Legally proven mental incapacity.

For the purpose of trial for suspension or revocation of Certificates, the Board shall have the power to subpoena witnesses, procure and compel their testimony, and compel the production of any books, papers or other documents it deems relevant to the inquiry.

The architect against whom charges are preferred, unless such charges are dismissed by the Board as trivial or unfounded shall be fairly tried before said Board and receive not less than twenty (20) days notice before the trial of his case, and said notice shall be delivered in person or forwarded by registered mail to the last known post office address of the accused, and shall contain a copy of the charges, the cause for contemplated action, and appoint a time, date and place for trial.

Any person may prefer charges against any architect, but no Certificate shall be revoked or suspended until after such trial, and at all such trials the accused shall have the right to have witnesses subpoenaed in his behalf and shall have the right to be heard in person if he so desires. Both the accused and the Board shall have the right to be represented by counsel and to cross-examine witnesses.

Any Circuit Court, or any judge of any Circuit Court, either in term time or in vacation, upon application of either the Board or accused, shall, by order duly entered, require

the attendance and enforce the giving of testimony of witnesses and require the production of such books and papers as are above, in this section, referred to, before the Board in any hearing or trial relating to suspension or revocation of any Certificate of Registration.

Upon refusal or neglect to obey the order of the said court or judge, the said court or judge shall compel, by attachment or proceedings for contempt of court, or otherwise, obedience to the order.

Any party aggrieved by the decision of the Board may seek a review thereof in the Court of Appeals of Kentucky by petition under oath setting forth concisely, but clearly and distinctly, the nature of the proceedings before said Board, the trial and determination thereof, and the particular ruling upon matter of law to which exception has been taken; said petition to be presented to any justice of the Court of Appeals within thirty (30) days after the filing of the report of said Board, with such notice to the Board as may be required by the rules of the Court of Appeals. If the justices shall be of the opinion that action of the Board ought to be reviewed, a writ of error shall be issued from the Court of Appeals within such time as may be prescribed by that Court, a transcript of the record in the case prepared, and the Court of Appeals shall review said record in the case and affirm, reverse or modify the judgment in accordance with law.

It shall be unlawful for anyone to publicly display a Certificate of Registration which the Board has revoked, suspended or refused to renew.

§ 30. *Restoration and Reinstatement of Certificates Revoked or Suspended*:—Any architect whose Certificate of Registration has been revoked or suspended may, at any time within five (5) years from date of such revocation or suspension, apply for reinstatement or restoration of said Certificate by written application to the Board accompanied by the proper fee and a statement under oath as to the reasons and grounds upon which claims to the right of reinstatement are



based; and the application shall be accompanied by such documentary and other evidence as the applicant cares to present in behalf of his claims, and said applicant shall have the right to be heard in person; provided, however, that no such application shall be accepted by the Board for at least one year after date of said revocation or suspension, and shall not accept applications from any one person more often than once each year.

Upon receipt of an application made as herein provided for reinstatement, the Board shall carefully and fairly examine and review all of the evidence and may, if the conditions fully justify such action in the opinion of the Board, cause the reinstatement and restoration of the Certificate and Registration of said applicant.

Provided, however, that, in addition thereto, the Board shall have the power to require any applicants for reinstatement of Certificates Revoked or Suspended who were registered without having qualified by examination, to qualify by the presentation of such evidence as it deems necessary, or by regular examination, to establish the qualifications of the applicant, and the Board may refuse to register any who are found to be unqualified.

§ 31. *Signing of Plans, Specifications and Other Documents.*—It shall be unlawful for any architect to sign his name, affix his seal, or use any other method of signature authorized or required by the Board under this Act, upon any plans, specifications or other documents, or to indicate in any manner whatever that such plans, specifications or other documents have been made by him, or under his immediate personal supervision, unless such plans, specifications and other documents have actually been so prepared.

Provided, further, that the Board shall have the power to require the signature or signatures of consultants, experts, professionals or any others contributing to the work, upon plans, specifications and other documents made under the Architect's supervision, in such manner as to clearly indicate



the part or parts of such work actually performed by each of them; and it shall be herewith and hereafter unlawful for any person to sign for any such branch of the work, or any function of architectural practice, not actually performed by them, except the Architect in charge, who shall be fully responsible for employment of competent assistants and fully and personally responsible for all plans, specifications and other documents issued under their seals or authorized signatures.

The Board shall make all necessary Rules and Regulations relating to signing and sealing of drawings, specifications, reports and other documents by Registered Architects.

§ 32. *Duty of Prosecuting Attorneys.*—It shall be the duty of all of the prosecuting and district attorneys in this State, and all political subdivisions thereof, to enforce the provisions of this Act and to prosecute persons charged with violations thereof. The officers of the Board, and its members, shall, under the direction of said Board, aid the attorneys in the enforcement of the provisions of this Act and the prosecution of violations.

§ 33. *Issuance of Permits to Build and Approval of Plans, Specifications and Related Documents.*—No permit to build shall hereafter be approved or issued by any building department, building inspector, city clerk or agency, employee or other persons charged with the duty of, or having the power to issue permits to build in this State, or in any county, city, town, or other political subdivision thereof, unless the plans, specifications and all related documents for the work are prepared in full accordance with all provisions of this Act; and no such building department, inspector, city clerk, agency or employee shall approve any plans and specifications or related documents unless they have been so prepared.

And it shall be hereafter unlawful for any person or persons, or for this State, or for any county, city, town, village or other political subdivision thereof, or for any firm, board, cor-

poration, or any others, to build or cause to be built any structure, unless the plans, specifications and related documents are prepared according to the provisions of this Act.

§ 34. *Unlawful Projects Under Construction.*—All State's Attorneys, and all prosecuting attorneys of all political subdivisions of this State, or any member of the Board hereunder created, or any inspector or duly authorized representative of the Board, shall have the power to close down, by placarding or otherwise, any construction project not meeting the provisions of this Act as to preparation of plans and specifications and related documents for said project.

And it shall be thereafter unlawful for any of the other trades, mechanics, inspectors, labor, or anyone, to proceed with the work except as may be directed by the Board.

In such cases the Board shall have the power to direct that no further work may be done upon the project until plans and specifications are legally prepared, or may, if it deems advisable, turn the project over to another architect, or may license the author of the original plans and specifications, or proceed in any manner it deems expedient to direct the future of said project; provided, however, that no other architect may be employed or work done after closing the job except after conference with the owner thereof, and with his full consent and cooperation.

No contract for work or services of any description, based upon plans, specifications and related documents that have not been prepared as required under the provisions of this Act, shall be valid.

§ 35. *Assistance of the Attorney General.*—The Attorney General of Kentucky shall act as legal adviser to the Board and lend such assistance as may be necessary in carrying out the provisions of this Act. The Board may, at its discretion, employ such other legal assistance as it may require.

§ 36. *Field and Office Assistants.*—The Board may, within the limitations of its proper funds, employ such field and

office assistants as it deems necessary to carry out and enforce the provisions of this Act.

§ 37. *Fees*.—For the purpose of defraying the expenses of said Board as herein provided and required for carrying out the provisions of this Act, the following fees shall be paid to the Treasurer of the Board:

(a) By an applicant for an examination Twenty-five dollars (\$25.00)

(b) By an applicant for transfer from another State or country Twenty-five dollars (\$25.00)

(c) By an applicant for reinstatement or restoration of registration that has been voluntarily surrendered, has expired six months or more prior to application, or which has been revoked or suspended, or which the Board has refused to renew Twenty-five dollars (\$25.00)

(d) By an applicant for Annual Renewal, an amount which may be fixed by the Board, but which shall not exceed Ten Dollars (\$10.00)

All of the above fees shall accompany applications and no part of said fees shall be refunded.

Any applicant failing to receive a Certificate upon his first application for examination, shall be entitled to enter any stated examinations held within three (3) years from date of such application without the payment of any additional fees; provided, however, that such applicant is qualified for admission thereto and does not enter more than one examination each year.

Any architects registered under the provisions of the 1930 Act shall be entitled to the same privileges, within the same limitations.

§ 38. *Reinstatement of Expired Certificates*.—Any Certificate of Registration which has not been renewed within a period of six (6) months after the date upon which renewal fee first becomes due, may, if requested within that time limit, voluntarily surrender his Certificate of Registration

together with all registration and other privileges of legal registration as herein provided.

Any registration so surrendered, by written request, may be renewed at any time within a period of five (5) years from date of expiration of the said registration without again qualifying therefor by examination, upon submission of proper application and payment of the required fee.

§ 39. *Salaries and Expenses.*—Each member of the Board shall be entitled to receive, as part of the expenses of the Board, a per diem of ten dollars (\$10.00) for all time expended in pursuance of the duties imposed upon him under the provisions of this Act and the Rules and Regulations of the Board. In addition thereto, such members shall be entitled to all necessary travelling, hotel, clerical and other expenses incurred in the performance of such duties.

The Secretary of the Board shall receive, in addition to the allowed per diem for general duties of Board members, such salary for office and routine work as the Board may allow, and such clerical and stenographic assistance as the Board may, from time to time, prescribe.

§ 40. *Collection of Professional Fees.*—It shall be unlawful, except as an employee acting under the direction of a Registered Architect, for any unregistered person to collect a fee for architectural service.

§ 41. *Limit of Indebtedness.*—All expenses incident to carrying out the provisions of this Act shall be paid from the funds of the Board.

The Board hereby created shall not have the power to create any debt or incur any expenses beyond the funds of the Board, which shall consist of fees herein provided.

§ 42. *Period of Grace for Payment of Renewal Fees.*—The Board shall have the power to fix a period of grace to be allowed for payment of Annual Renewal Fees as required under this Act. Provided, however, that such period of grace shall in no case exceed ninety (90) days from the date such fees are due.

§ 43. *Plans and Specifications to be Sealed.*—Each registrant shall obtain a seal of such design as the Board shall authorize and direct.

Plans and specifications prepared by, or under the direct supervision of a Registered Architect shall be stamped with said seal during the life of the registrant's Certificate; and it shall be unlawful for anyone to stamp or seal any documents with said seal after the Certificate of the registrant named thereon has expired or has been revoked or suspended, unless and until said Certificate shall have been renewed or reissued.

§ 44. *Penalties for Violating the Provisions of This Act.*—Any person or persons violating the provisions of this Act shall be deemed guilty of a misdemeanor and, upon conviction, shall be fined not less than fifty dollars (\$50.00), nor more than five hundred dollars (\$500.00), or be imprisoned in the County Jail for a period of not less than one (1) month, nor more than six (6) months, or be both so fined and imprisoned at the discretion of the Court or Jury.

§ 45. *Operation of Decisions Adjudging Any Part of This Act Invalid.*—If any clause, sentence, paragraph or part of this Act shall, for any reason, be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, invalidate or impair the remainder or any other part of said Act, but shall be confined in its operation to the clause, sentence, phrase, paragraph or part directly involved in the controversy in which said judgment is rendered.

§ 46. *How this Act May be Known and Cited:*—This Act may be known and cited as the "Kentucky Architectural Act."

§ 47. *Short Form of Title.*—The Board herein created and provided for in this Act may be known and cited as the "Kentucky State Board of Architects."

§ 48. *Laws Repealed.*—Chapter 168 of the Acts of the Kentucky General Assembly of 1930 (Sections 73-1 to 73-15 inclusive of the 1936 Edition of Carroll's Kentucky Statutes)



and all laws or parts of laws in conflict with the provisions of this Act are hereby and herewith repealed.

§ 49. *Reorganization Act of 1936*.—This Act shall in no way invalidate the Reorganization Act of 1936.

Ordered that said bill be printed and referred to the Committee on Kentucky Statutes No. 1.

H. B. 99. An act to amend and re-enact Section 3747A-1, Carroll's Kentucky Statutes 1936 Edition, requiring public officials of counties, graded school districts, subdivisions and districts less than a county and municipalities, whose duty it is to collect, have the custody or disbursement of public funds of such county, graded school district, subdivision or district less than a county or municipality, to make, file and publish annually an itemized sworn statement of all funds collected, received and disbursed by such officer during the fiscal year, except in counties having therein a city of the first class or a county or city which by law is required to make quarterly publications of its fiscal and financial affairs; and prescribing Penalties for a violation thereof; and defining the words "bona fide circulation" therein.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Every public official of any county, graded school district, city, town or subdivision or district, less than a county, whose duty it is, by virtue of his office, to collect, receive, have the custody, control or disbursement of public funds of said county, graded school district, subdivision or district of said county, city or town, except in counties containing a city of the first class or a county or city which by law is required to make quarterly publication of its fiscal and financial affairs; shall at the expiration of each fiscal year prepare an itemized, sworn statement of such funds so collected, received,

held or disbursed by him, during the fiscal year just closed, which statement shall show the amount of public funds collected and received and from what sources received; the amount disbursed, the date of each disbursement, for what purpose expended and to whom paid; and said official shall procure or include in or attach to said report as a part thereof a certificate from the cashier, or other proper officer of the bank or banks in which such funds are or have been during the year past deposited, showing the balance, if any, of such public funds to the credit of the official making such statement; and such officer shall within thirty days after the close of the fiscal year cause such statement to be published in full in a newspaper published in said county which has the largest bona fide circulation therein, and said officer shall file a written or printed copy of said statement, subscribed and sworn to, in the office of the clerk of the county court of the county in which said officer resides, or holds office. Provided, that the publication required in this act shall be made in the size of type provided by law and at the rate provided by law, to be paid for out of the public funds in the hands of the officer making such statement.

§ 2. The term "bona fide circulation" is defined for the purpose of this Act to mean a circulation consisting of subscribers residing in said county, graded school district, subdivision or district less than a county, and municipality, who subscribe for and actually pay for their subscriptions. The term shall not be construed to include any newspaper whose circulation or any part thereof is distributed free of cost to persons receiving said newspaper. Neither shall the term be construed to include any newspaper whose circulation or any part thereof is paid for by some advertiser, merchant or promoter.

Ordered that said bill be printed and referred to the Committee on Printing.

H. B. 98. An act to amend and reenact Section 1851c-5, Carroll's Kentucky Statutes, 1936 edition, being Chapter 24 of the Acts of the General Assembly, 1934, pertaining to the submission of county budgets to the fiscal courts and the publication thereof, and defining the term "bona fide circulation".

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. All proposed county budgets, adopted by the county budget commission and approved by the State Inspector and Examiner as to form and classification shall be submitted to the fiscal court at the time fixed for the adoption of the county levy and budget for approval or rejection and not later than July first of each year. The Commission shall post or cause to be posted in a conspicuous place in the court house near the front door a copy of the proposed budget for at least ten days preceding the time of final approval by the fiscal court and published in a newspaper of bona fide general circulation in the county at least ten days before final approval.

In case the fiscal court shall reject any part of the proposed budget, then the fiscal court itself shall make such changes in the nature and amount of funds as will meet the approval of a majority of the court. The fiscal court shall have no power or authority to make any change in the form or classification of the budget units or subdivisions thereof as approved by the State Inspector and Examiner.

Any taxpayer or group of taxpayers shall have the right to petition the fiscal court in respect to the budget or any part thereof before final approval.

The term "Bona fide circulation" is defined for the purposes of this Act to mean a circulation consisting of subscribers who subscribe for and actually pay for their subscriptions. The term shall not be construed to include any newspaper whose circulation or any part thereof is distributed free of

cost to persons receiving said newspaper. Neither shall the term be construed to include any newspaper whose circulation or any part thereof is paid for by some advertiser, merchant or promoter.

Ordered that said bill be printed and referred to the committee on Printing.

H. B. 97. An act amending and re-enacting Section 14a-1, Carroll's Kentucky Statutes, 1936 edition, being Chapter 92, Section 1 of the Acts of the General Assembly of Kentucky, 1902, pertaining to newspaper advertisements of sales under judgment, and defining the term "bona fide circulation".

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That in addition to the notices now required by law to be posted, all public sales of any kind of property, when sold under execution, judgment or decree, shall, unless otherwise agreed upon by the parties to such execution, judgment or decree be advertised in a newspaper of bona fide circulation published in the county of such sale at least once a week for three consecutive weeks next preceding the day of sale; Provided, that in counties where there is a daily newspaper published or in general circulation, publication of such notice of sale for three consecutive days next preceding the day of sale shall be sufficient. The advertisement shall state the time, place and terms of sale and shall give a description of the property to be sold: Provided, that the newspaper advertisement herein provided for shall not be necessary where the appraised value of the property to be sold is less than one hundred dollars, to be ascertained by appraisement in each case as now provided by law.

§ 2. The term "bona fide circulation" is defined for the purposes of this Act to mean a circulation consisting of sub-

scribers who subscribe for and actually pay for their subscriptions. The term shall not be construed to include any newspaper whose circulation or any part thereof is distributed free of cost to persons receiving said newspaper. Neither shall the term be construed to include any newspaper whose circulation or any part thereof is paid for by some advertiser, merchant or promoter.

Ordered that said bill be printed and referred to the committee on Printing.

H. B. 84. An act amending the Constitution of the Commonwealth of Kentucky, relating to assistance to the aged, to the blind, and to dependent children, and to other assistance in cooperation with the federal government under the Social Security Act and acts amendatory thereto.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That upon the concurrence of three-fifths of all the members elected to each house of the General Assembly of the Commonwealth of Kentucky, the yeas and nays being taken thereon and entered in full on their respective journals that there be and it is hereby adopted an amendment to the constitution of Kentucky, which shall read as follows: The General Assembly shall provide by law for assistance to the aged, to the blind, and to dependent children, and for other assistance in cooperation with the federal government under the Social Security Act and acts amendatory thereto.

§ 2. This amendment shall be submitted to the voters of the State for their ratification or rejection at the time and in the manner provided for under Section 256 of the Constitution of Kentucky under Section 1459 of Baldwin's Revised Edition of Carroll's Statutes, 1980 Official Edition.



Ordered that said bill be printed and referred to the committee on Constitutional Amendments.

H. B. 73. An act to amend and re-enact Section 3187d Kentucky Statutes.

Said bill is as follows:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 3187d Kentucky Statutes be amended and re-enacted so that said Section as so amended and re-enacted shall read as follows:

“Section 3187d. In addition to the power given to cities of the second class by the provisions of existing laws for the collection of taxes by sale of delinquents’ property, such cities shall also have the power and are hereby authorized to enforce the collection of any taxes due them, and to enforce the lien therefor on the property of such delinquent, by any and all remedies given by general law for the recovery of debt and the enforcement of liens upon property in satisfaction thereof in any Court of this Commonwealth otherwise competent for that purpose, and suit for the collection of taxes may be instituted at any time after such taxes become delinquent. In any such action the City may file a copy of the tax bill attested by the Treasurer under the seal of the City, and said tax bill shall be prima facie evidence of the due and regular assessment of the property for taxation, the levy of taxes thereon, and of every other fact and proceeding necessary to entitle the City to judgment for the taxes with all interest and penalties thereon and the cost of the action, and to have a sale of the property for the payment of same, though said relief be against a non-resident or person under disability, and in such action against non-residents the City shall not be required to file or execute any bond for restoration of said property or money as provided in Section 410 of the Civil Code. Provided, however, that no personal judgment shall be ren-

dered against a person under disability or against a non-resident who has not appeared or been summoned in the action, and the proceedings against such person shall be as provided in the Civil Code of Practice except as otherwise herein provided. Circuit Courts shall have jurisdiction of all proceedings to enforce liens on real estate for taxes as herein provided without regard to the amount of same."

§ 2. All laws and parts of laws in conflict herewith and to the extent of such conflict only are hereby repealed. It is the purpose of this Act to provide an additional remedy for the enforcement of tax claims by cities of the second class.

Ordered that said bill be printed and referred to the committee on Municipalities.

H. B. 57. An act to repeal Section 3629 of Baldwin's Kentucky Statutes, Carroll's 1930 Edition, relating to marshals, their duties and powers and the collection of taxes in cities of the fifth class and creating in lieu thereof a police department in cities of the fifth class, vesting the appointing power of the chief of police, policemen, number, term of office, grades and compensation in the city council of cities of the fifth class, and fixing their duties and qualifications and term of office and how elected.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 3629, of Baldwin's Kentucky Statutes, Carroll's 1930 Edition, be and the same is hereby repealed, amended and re-enacted so that when re-enacted it will read as follows:

The city council of cities of the fifth class shall have power to appoint a police force, the number, grades, compensation and all regulations thereof to be provided by ordinance from

time to time, whose term of office shall not exceed two years from the date of election, subject to removal for cause.

§ 2. No person shall be eligible as a policeman who is not at the time of his appointment a citizen of the United States and of the State of Kentucky, a resident of the city, at least twenty-one years of age, or who is not sober and of good moral character, or who has been convicted of a felony, or who cannot read and write the English language intelligible.

§ 3. Every policeman shall take an oath faithfully to perform the duties of his office, and that he possesses the qualifications required in this act.

§ 4. The chief of police and every policeman shall have the power to execute warrants of arrest, processes, subpoenas and attachments for witnesses, whether the same be directed to him or not. They and each of them shall have power to arrest as is prescribed by the general law for offenses against ordinances or municipal regulations of the city, and the same power of arrest for offenses against the Commonwealth of Kentucky that the sheriff has. Fees for any services under this section shall be the same as allowed by law to sheriffs and other officers for such services but the city council may by ordinance direct that said fees be paid into the city treasury when the chief of police and policemen are employed on a salary.

§ 5. The policemen under this act shall have authority to make arrests anywhere in the county in which the city is located but shall not be required to police any territory outside of the city limits.

§ 6. Persons arrested for any bailable offense may be placed in the station house, county jail, or city jail, if necessary, for safe keeping until taken before the police court for examination.

§ 7. The city council shall have power to appoint a chief of police, who shall hold his office for a term of not longer than two years, or until his successor is appointed and quali-

fied, subject to the power of removal for good cause at any time by the city council.

§ 8. The chief of police shall be in command of the police force of the city. He shall attend all sessions of the city council, execute the orders thereof and preserve order thereat. He shall attend all session of the city court, or have one of the police officers there, who shall act as sheriff of said court and execute all processes, orders and judgments of said court and he shall be entitled to the same fees for like services and to the same remedies for collecting his fees as the sheriff is entitled to, except that where he is employed on a salary by the city council and it is prescribed by ordinance that he shall turn said fees over to the city treasury he shall collect all fees due him and turn them over to the city treasury. The chief of police shall have supervision of the city jail, if the city has one, and the chain gang. It shall be the duty of the chief of police or any policeman of the city to cause proceedings to be instituted against any person carrying on a business, or doing any act for which a license is required, without paying such license.

§ 9. The chief of police shall collect all taxes placed in his hands for collection by the city council, except license taxes and taxes paid by banks, trust companies, building associations and other corporations, which taxes shall be paid directly to the treasurer. He shall on the first Monday in each month, pay to the treasurer all taxes and other funds of the city collected by him the preceding month. He shall upon payment of the money, file with the treasurer an affidavit stating that the money so paid is all the taxes or funds he has collected or received during said month. He shall upon receipt of any tax list give his receipt for same to the city clerk, and shall upon depositing with the city clerk the delinquent tax list, take his receipt therefor.

§ 10. The city council may appoint a city tax collector who shall perform the duties pertaining to the collection of taxes as heretofore set out in this chapter, but who shall give

bond in such sum as may be required by the city council before entering upon the discharge of his duties.

§ 11. The chief of police before entering upon the discharge of his duties shall execute bond, with good surety, in the sum of Two thousand (\$2,000.00) dollars, and each policeman before he enters upon the discharge of his duties shall execute bond, with good surety, in the sum of one thousand (\$1,000.00) dollars, to be approved by the city council, to the Commonwealth of Kentucky for the benefit of whom it may concern, that he will faithfully discharge all the duties of his office and pay over all sums of money that may come into his hands to the person entitled thereto; and for any unlawful arrests, or unnecessary or cruel treating or assault in making an arrest, he and his sureties shall be liable to the person so injured on said bond.

§ 12. All acts or parts of acts in conflict herewith are hereby repealed, and if any provision of this act is held invalid, it shall not affect in any way the other provisions of the act, which shall remain in full force and effect.

Ordered that said bill be printed and referred to the committee on Municipalities.

H. B. 51. An act to prohibit the Board of Education or Superintendent of Public Schools of any city within this Commonwealth from adopting any rules or regulations or having any rules, regulations, laws or policy in the restraint of marriage of any public school teacher who has had five (5) years or more teaching experience within the public schools of this Commonwealth, and declaring and carrying into effect the public policy of this State with respect to marriage.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That whereas the contract of marriage is one of the most



important of all human transactions, and being the very basis of the whole fabric of society; the marriage status and the freedom to enter into the contract of marriage is of vital interest to the public creating the most important relation in life.

That the Board of Education or the Superintendent of Public Schools of any city within this State shall be prohibited from having, adopting or making any rules, regulations, laws or policy in the restraint of marriage of any public school teacher who has had five (5) years or more teaching experience within the public schools of this State, and that marriage shall not be grounds for the dismissal of any public school teacher or the cancellation of any teachers' contract.

That all rules, regulations, laws or policies in conflict with this Act and the purpose thereof shall be of no effect; and it is hereby declared as the public policy of this State.

Ordered that said bill be printed and referred to the committee on Education.

H. B. 7. An act to amend and re-enact Section 3235 DD-49 of the 1933 Supplement to the 1930 Edition of Carroll's Kentucky Statutes, being Chapter 91, Section 34, of the Acts of 1930, pertaining to the abolition of the City Manager Form of Government in Cities of the Second Class, the return to Councilmanic Form of Government or the Commission Form, and providing for the manner in which same may be done.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 3235 DD-49 of the 1933 Supplement to the 1930 Edition of Carroll's Kentucky Statutes be amended and re-enacted so that when so amended and re-enacted the same shall read as follows:

Whenever the citizens of any city which shall have been organized and governed under the provisions of this Act for a period of not less than four years, shall desire that the organization and government of such under the provisions of this Act shall terminate and cease, and shall desire that said city be organized and governed either under the "Councilmanic Form of Government", under the provisions of an Act entitled: "An Act for the Government of Cities of the Second Class in the Commonwealth of Kentucky", approved March 19, 1894, as amended, or shall desire that said City shall be organized and governed under the provisions of an Act entitled "Commission Form of Government", being the Act of March 21, 1910, and its amendments, known as The Commission Form of Government Act and published as Sections 3235 C-1 and 3235 D-1 et seq. of the Kentucky Statutes, and said citizens shall file with the County Judge of the County in which is located said city, written petitions signed by a number of the legal voters of said city equal to twenty-five per centum (25%) of the votes cast in the said city at the last preceding general election, it shall be the duty of the County Judge of the said county to receive said petitions and at the next regular term thereafter to make an order on his order books, directing an election to be held in said city at the next regular election and not earlier than sixty (60) days after said application is lodged with said judge, which order shall direct the sheriff or other officer of said county who may be appointed to hold said election, to open the polls at each and all the voting places in said city for the purpose of taking the sense of the qualified voters of said city upon the question as to whether or not the citizens of said city are in favor of the abandonment of the organization and government of said city under the provisions of this Act and the adoption of either the Councilmanic Form of Government or of the Commission Form of Government as provided for in the respective Acts hereinabove referred to and the amendments thereto. The question to be submitted to the voters shall be: Shall the City

of ————— (naming said city) abandon its organization and government under the city manager form of government as provided for in an Act entitled (naming this Act and giving the year or date of passage or approval, or both), and be organized or governed under the Councilmanic Form of Government as provided for in an Act entitled: "An Act for the Government of Cities of the Second Class in the Commonwealth of Kentucky, approved March 19, 1894, and the amendments thereto", or in the event it is proposed to abandon the said City Manager Form of Government and return to the above stated Commission Form of Government, then the question to be submitted to the voters shall be: Shall the City of ————— (naming said city) abandon its organization and government under the City Manager Form of Government as provided for in an Act entitled (naming this Act, and giving the year or date of passage or approval, or both), and be organized and governed under the Commission Form of Government under the provisions of an Act entitled "Commission Form of Government, the same being the Act of March 31, 1910, and its amendments, known as the Commission Form of Government Act and published as Sections 3235 C-1 et seq. and 3235 D-1 et seq. with the amendments thereto of the Kentucky Statutes. Provided, however, that said written petitions, hereinabove referred to, shall specify the form of government to which said legal voters desire to return, and that the said question which shall be put to the said voters must specify but one form of government and that form to be identical with that mentioned in the said written petitions hereinabove referred to. It shall be the duty of the County Clerk to give to the sheriff of the county or to such other officers as may be appointed to hold said election, a certified copy of the order of the County Court as it appears on the order book, within five days after such order is made and it shall be the duty of the said sheriff or other officer, to have such order published in some weekly or daily newspaper, published or circulated in said county

for at least two weeks before the election and also to advertise the same by printed or written handbills posted in conspicuous places in said city, for the same length of time. If there is no weekly or daily newspaper published in said city, or the proprietor of such paper refuses to publish such notice, the printed or written handbills provided for shall be sufficient notice. The sheriff or other such officers shall have the advertisements and notices herein provided for, posted as herein required, within seven days after he receives the orders of the County Court. It shall be the duty of canvassing board to certify the result of said election to the County Court, which certificate shall be delivered to the Clerk of the City and at the next regular term of said Court the County Judge shall cause the same to be spread upon the order book of said court and the entry of said certificate on the order book or copy thereof shall be prima facie evidence of the facts therein contained. When a majority of the votes cast shall be in favor of said proposition to be submitted, and said fact shall be certified to as hereinbefore provided, by the said canvassing board to the County Clerk and a copy of which shall be certified to the city clerk and said copy of said certificate shall be spread upon the records of said county, as herein provided, and upon the records of said city at the next regular meeting of the board of commissioners thereupon said city shall cease to be governed by the provisions of this act, but thereafter shall be governed either by the Councilmanic Form of Municipal Government as provided for in an act entitled "An Act for the government of cities of the second class in the Commonwealth of Kentucky", and the amendments thereto, which said Act was approved March 19, 1894, or under the Commission Form of Government as provided for in an act entitled "Commission Form of Government", and amendment thereto, which said act was approved March 21, 1910, and published as Sections 3235 C-1 et seq. and 3235 D-1 et seq. of the Kentucky Statutes, independent of the provisions of this Act. The said form of government to be according to that

specified in the said question submitted to the legal voters of the said city as hereinabove provided for. Provided that the commissioners theretofore elected shall continue in office and administer the government of such city until the expiration of the terms for which they were elected, and, provided further that elections under this section shall not be held at the same time commissioners are elected.

Ordered that said bill be printed and referred to the Committee on Municipalities.

Senator Blake moved that the rules be suspended for the purpose of introducing bills.

Said motion was agreed to by a majority of the members elected.

Thereupon, bills of the following titles were introduced, ordered printed and referred, as follows, viz.:

By Senator Blake.

S. B. 151. An act to regulate and control employment of operators, cashiers and other persons who operate and conduct pari mutuel machines, and providing that 90% of all such employees be residents of the Commonwealth of Kentucky.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That every person, firm, fiduciary, association or corporation which is licensed in Kentucky to engage in the business of conducting a race track at which races are run for stakes, purses or prizes, where pari mutuel machines are being used and operated, shall employ at least ninety per cent. (90%) of all such pari mutuel operators, cashiers, ticket sellers, and all



others in the mutuel department, who are bona fide residents of the Commonwealth of Kentucky.

Any violation of this act, or the failure of any person, firm, fiduciary, association or corporation to employ ninety per cent. (90%) of bona fide residents of Kentucky as operators, cashiers, ticket sellers, and other employees of mutuel machines shall result in a forfeiture of the license of such person, firm, fiduciary, association or corporation.

It shall be the duty of the Racing Commission and/or the Department of Revenue to enforce the provisions of this act. Proceedings may be instituted against any person, firm, fiduciary, association or corporation violating this act in the county where the violation occurs, or in the Franklin Circuit Court.

To Committee on Kentucky Statutes No. 1.

By Senator Blake.

S. B. 152. An act repealing, amending and re-enacting section 2739g-2a, Kentucky Statutes, Baldwin's 1936 Revision, relating to the registration of automobiles with the county clerk and providing that no automobile shall be so registered without the owner accompanying his application with public liability and property damage bond or insurance policy in the sum of one thousand dollars (\$1,000.00) or affidavits showing that applicant has property subject to execution or the value of one thousand (\$1,000.00) dollars; and declaring an emergency.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 2739g-2a, Kentucky Statutes, Baldwin's 1936 Revision be and the same is hereby repealed, amended and re-enacted so that when amended and re-enacted same shall read as follows:

Before the owner or operator of an automobile shall operate or be permitted to operate same, or shall permit the operation of same upon any public highway, such owner shall register with the Commission through the clerk in the county in which he resides or in the county in which the automobile is to be operated, making application for such registration to the clerk of such county on a blank to be furnished by the Commission through the clerk, which application shall be accompanied by a bill or sale if the application be for registration of a new car, or by exhibiting the owners registration receipt if such automobile has heretofore been registered, and such application shall likewise be accompanied with a public liability and property damage bond or insurance policy for One Thousand Dollars (\$1,000.00) payable to the owner or operator of said automobile, or in lieu of said bond or insurance policy said applicant shall accompany said application with his affidavit showing that he has property subject to execution of the value of one thousand dollars (\$1,000.00) for any damage to any person or property by reason of his negligent operation of said automobile upon the public highways of this State, and thereafter he shall register his automobile on or before the first day of March of each and every year. Provided, that in so far as the owner is concerned, registration with the clerk as required by law shall be deemed to be a registration with the commission.

§ 2. By reason of the fact that persons are now operating motor vehicles upon the public highways of this State who are unable financially to compensate for any damage to persons or property by reason of the negligent operation of their said automobiles, and by reason of which the lives and property of citizens in this State are in such instances without any protection whatever, an emergency is hereby declared to exist and this Act shall be immediately effective upon and after its passage by the General Assembly and the signature by the Governor.

To Committee on Kentucky Statutes No. 1.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 47. An Act to amend and re-enact Section 514 of the Civil Code of Practice, relating to the reversal of judgments by the Court of Appeals.

Senator Gilbert moved that said bill be allowed to retain its place in the Orders of the Day.

Said motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 34. An Act to amend Section 2741d-2, Carroll's Kentucky Statutes, 1936 Edition, relating to libraries, boards of trustees, powers members, appointments and term qualifications and expenditures not to exceed net income and adding to said section auditoriums and club rooms and other public accommodations which have been or may be constructed in connection with public libraries and providing for a board of trustees and giving said board of trustees the power to issue bonds and notes not exceeding ten thousand dollars and providing for the payment of such indebtedness, limiting the amount of said indebtedness which the board may incur for equipping said buildings.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 2741d-2, Carroll's Kentucky Statutes, 1936 edition, being part of the Acts of the General Assembly of

1920, Chapter 146, be and the same is hereby amended by adding thereto the following:

Except that in the event an auditorium or club room or other such public accommodations have been or shall be constructed in connection with the public library and are thereby an integral part of the library building, said Board of Trustees may in their discretion and if they deem it necessary, issue bonds or execute notes in the sum of not exceeding Ten Thousand Dollars (\$10,000) for the purpose of paying off any indebtedness that the corporation may owe or any indebtedness that the corporation may incur for the purpose of properly equipping said building for the purposes for which it was constructed or properly completing the construction thereof, or of making necessary additions thereto in order to properly serve its purposes. The said bonds or notes may be secured by any or all real property or personal property owned by said corporation. In the event bonds are issued, they shall be designated as "library bonds", and the Board of Trustees shall by an appropriate resolution fix the date and maturity of such bonds, the rate of interest they shall bear and the form they shall bear and where they shall be payable. Said Board shall determine when and at what price and how they shall be sold; providing that any premium which may be obtained from the sale of said bonds shall constitute a sinking fund for their ultimate retirement. As the bonds are sold or when the money is received on the executed notes, the proceeds shall be placed to the credit of said corporation in some bank or banking institution or trust company, but shall be kept in a separate account and shall be used only for the purpose for which the bonds were issued or the notes were executed. Said Board shall set up each year in its annual budget a sufficient amount for the payment of the interest on the bonds or notes.

Senator J. Lee Moore moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, same was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	Leo King	Thomas O. Turner
H. Stanley Blake	J. W. McDonald	E. T. Wesley
Ollie J. Bowen	Stanley B. Mayer	Otis White
Leer Buckley	Strother Melton	O. C. Whitfield
Dr. D. H. Bush	E. C. Moore	B. M. Williams
Lee Gibson	J. Lee Moore	J. E. Wise
Ralph Gilbert	Ira W. See	J. M. Wolfinbarger
John M. Hall	Paul L. Sidebottom	
H. Watt Hillman	J. E. Trager	

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Senator J. Lee Moore offered the following amendment to the title of said bill, viz.:

Amend the title to Senate Bill 34 by inserting the letter



“d” after the figures “2741” in the first line of the title to said bill.

Said amendment to the title of said bill was agreed to.

Resolved that the title thereof be as amended.

Senator J. Lee Moore moved that the vote by which said bill was passed be reconsidered and said motion lie on the table.

Said last named motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 90. An Act to amend “An Act authorizing the establishment of free public libraries in cities of the Second and Third Classes”, which was enacted at the regular session of the General Assembly of the Commonwealth of Kentucky held in the year 1902, and which was approved March 21, 1902, and which appears as Chapter 70 of the Acts of the General Assembly passed at said regular session of the year 1902, at pages 155 to 158 thereof, and which also appears as Section 3210b-1 of Carroll’s Kentucky Statutes, Baldwin’s Revision, published in the year 1936, as said Act may have been heretofore amended; and for other purposes.

Said bill reads as follows, viz.:

WHEREAS, it has been found from long experience that the provisions now made by law for the establishment, support and maintenance of free public libraries in cities of the Second Class in this Commonwealth are insufficient to provide annually the income and revenue reasonably necessary for such establishment, support and maintenance, and

WHEREAS, in the Act passed at the regular session of the General Assembly, held in the year 1902 and approved on

March 21, 1902, which appears as Chapter 70 of the aforesaid Acts of 1902, and also as Section 3210b-1 of Carroll's Kentucky Statutes, Baldwin's Revision, published in the year 1936, the provision therein made that "Three per centum (3%) of the net amount of taxes levied annually in the city for common school purposes" has heretofore been adjudged to be unconstitutional and inoperative, and cities of the Second Class have been unable to avail themselves of said provision and no other source of income has heretofore been provided as a substitute for said three per centum (3%) of the net amount of taxes levied annually in the city for common school purposes, and

WHEREAS, by existing law, provision has been made whereby the governing authorities of any city of the First, Third, Fourth, Fifth, and Sixth Classes are authorized to levy, for public library purposes, an annual tax upon all property assessed and taxed for city purposes, within the rates and limits by such laws prescribed, but no such provision has ever been made with respect to free public libraries in cities of the Second Class in this Commonwealth; and the need for such power and authority is most urgent,

NOW, THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Chapter 70 of the printed Acts passed by the General Assembly at its regular session held in the year 1902, which was approved March 21, 1902, and now appears as Section 3210b-1 of Carroll's Kentucky Statutes, Baldwin's Revision, published in the year 1936, be amended and re-enacted so that same as amended and hereby enacted shall read as follows, to-wit:

That as soon as a sufficient fund for that purpose shall be accumulated, under the provisions of this Act, augmented by private contributions or otherwise, in any city of the second class, there shall be established and maintained in such

city a free public library, and in cities of the second class wherein, under any act of the General Assembly, a free library has been established, the same shall continue as herein provided. Said free public library shall be under the direction and control of a board of trustees, consisting of seven members, to be styled the "Board of Trustees of the Public Library," and which said board of trustees of the public library shall continue, and they are hereby declared a body politic and corporate, under said name and style, with perpetual succession, and by that name may contract and be contracted with, sue and be sued, have and use a corporate seal, the same to alter and renew at pleasure, or may act without a seal; may purchase, receive, lease, hold, sell and dispose of real and personal estate for public library purposes. Said board shall have the custody, control, management and expenditure of all funds that may heretofore have been *acquired or accumulated* for free public library purposes, or that may hereafter be *acquired or accumulated* for or be devoted to said purposes; and *any funds, securities, or other personal or real property, or the proceeds of real or personal property, heretofore received or that may hereafter be received by said board by gift or donation, or otherwise in trust for library purposes, may be held intact as the principal of an investment or endowment fund subject to investment and reinvestment from time to time, in real or personal property, and such fund, if and when established, may be allowed to accumulate for such length of time and to such an amount as said board, in its discretion, shall deem prudent and advisable; and, likewise, in the discretion of said board all or any part of the gains and income arising from such fund may, as it accrues, be allowed to accumulate and be added from time to time to such fund, and thereby become and be a part of the principal and be managed, invested, treated and disposed of for all purposes as principal and be held and maintained intact as such corpus or principal.*

The mayor of the city, and presiding judge of the county

court of the county in which the city may be located, in case the county contributes annually to the maintenance of the public library shall be ex-officio members of said board and the remaining five members thereof shall be appointed by the mayor one for one year, one for two years, one for three years, two for four years, and their successors, as said terms shall respectively expire, to be appointed for four years, and shall be so selected and appointed as never to have more than four members thereof of the same political party, and that two members of said board shall be women. The members of said board so appointed by the mayor shall be citizens of the city and not less than thirty years of age, shall serve without compensation, shall each give a bond in the sum of five thousand dollars, for the faithful performance of their respective duties, and shall take an oath before the mayor to faithfully perform their duties. *Vacancies shall be filled as herein before provided and appointments made for the duration of the unexpired term.*

Said board shall have no power to charge any of the real or personal property of said corporation with any debt or liability, and shall at no time expend, in the operation or maintenance of the library, or for any other purpose, any money in excess of that annually appropriated by the provisions of this act, and should said board attempt to impose any debt or liability upon the property of said free public library, or make any contract for amounts of money in excess of that annually appropriated by the provisions of this act, all such contracts or liabilities shall be void as against the free public library, and such members of the board as may vote for such debts, liabilities or expenditures of money shall be personally liable for the same.

*The board shall meet once each month and oftener if necessary for the transaction of business. At its first meeting in each fiscal year the board shall elect a President, a Vice-President and a Secretary-Treasurer. The Treasurer shall submit an itemized report of receipts, expenditures and bal-*

*ance on hand at each monthly meeting and a similar report at the end of the fiscal year. Said board shall have the power necessary to establish, and when established, to maintain and conduct said free public library and may adopt from time to time rules and regulations for the proper conduct of said library. Said library shall be open and free to the public, under such rules and regulations as the board of trustees may prescribe, during reasonable and proper hours. Said board is empowered to employ such technical and clerical staff as may be necessary to successfully conduct the affairs of the library. The librarian shall submit a monthly and yearly report to the board describing the kind and amount of the various services rendered. Such yearly report with the Treasurer's yearly report shall be sent within sixty days after the close of the fiscal year to the state library agency authorized by law to secure such information.*

Then there is already established in the city a public or private library, the board of trustees of the public library may enter into an agreement with the association or corporation, owning or controlling such library, whereby such library, including books, real and personal property, may be transferred or leased to said board of trustees of the public library, for a term of years or in perpetuity, or united with that established by the city under the provisions of this or any former act.

Said library shall be strictly non-sectarian and non-partisan, and always so conducted. And the legislative body of the city shall, by a proper ordinance, provide penalties and the method of imposing the same, for the *protection and preservation of books and equipment*, the property of said free public library, and the prevention of trespass upon the grounds *or buildings* thereof, and for the proper conduct of patrons of said library; and all fines and costs collected for the violation of such ordinance or ordinances shall, when collected, be paid over to the board of trustees of said library.

In aid of the establishment, *upkeep, support and main-*



tenance of such free public library, there is hereby appropriated *for its use and benefit* one-half of the net amount of all fines, forfeitures, and costs collected in the police court of such city; and, *to further aid in the establishment, upkeep, support, and maintenance of such free public library, and in consideration of the public use thereof, the general Council or board of City Commissioners or other governing authority, as the case may be, of any such city of the second class, shall annually, in its annual ordinance fixing the tax rate, include a levy for public library purposes, of not less than two cents (2c) and not exceeding five cents (5c) on each one hundred dollars (\$100) of the value of all property assessed for taxation for city purposes and the amount so levied shall annually be appropriated and passed to the credit of the free public library, upon the books of said city, and the amounts of such levy as collected, shall be paid over to the free public library aforesaid by the city, in regular monthly or quarterly installments, as may be most convenient to the city; and all money so appropriated, levied, collected, and paid over to and received by such free public library, together with such other money or funds, if any, it may receive for the purpose from any other source, or sources, shall be used in conducting and maintaining said library for the public uses and purposes aforesaid and for none other. All moneys due the library shall be deposited in an insured bank in said city and funds shall be withdrawn from said bank only on order of the board by check of its treasurer, countersigned by its president or its vice-president when acting in his stead.*

And to further aid in the establishment and maintenance of such public library, the general council or other governing authority of the city and the fiscal court of the county, either or both, jointly or separately, are hereby authorized and empowered to accept, by ordinance, resolution, order or contract, (and, if necessary, unite with the board of trustees of the public library), and donation that may have been offered by Andrew Carnegie or may hereafter be offered by any

person, persons, association or corporation, and comply with the conditions upon which said donations may be offered and accepted, and make the terms of said contract perpetually binding upon said city and county; and said general council or other governing authority of the city and fiscal court of the county shall annually levy such special tax as may be necessary to comply with said conditions or terms of any such contract, and to provide the sums of money agreed therein to be paid annually and perpetually for the maintenance of said public library, and shall cause the same to be collected as and when other taxes are collected and paid over promptly to the board of trustees of the public library.

§ 2. *That in any city of the second class where, by any contract or obligation now existing and in force or where, by any contract or obligation that may hereafter be entered into by such city, any such city of the second class has covenanted, agreed and bound itself to pay toward the establishment, upkeep, support and maintenance of any free public library already established or that may at any time hereafter be established in such city, a minimum sum certain, such contract or obligation shall be and remain in full force and effect notwithstanding the provisions by this Act made for the establishment, support upkeep and maintenance of any such free public library; and any payment or payments required to be made by the city in consequence of any such contract or obligation made and entered into by it with any other person or persons, institution or institutions, whether incorporated or unincorporated, shall be met and discharged by the city in addition to the provisions by this act made for raising and providing revenue for the support, upkeep and maintenance of any such free public library; and any such city of the second class shall not have the right to apply or take credit to itself against the amount from it by reason or on account of any such contract or obligation, any monies derived from the general tax levy hereby authorized and directed to be made, or any monies derived from fines, forfeitures or costs collected*

*in the police court of such city, one-half of the net amount of all of which fines, forfeitures and costs, collected in such police court, are hereby appropriated to be paid over to the Board of Trustees of the free public library of such city for the support, upkeep, and maintenance hereof; and any public library of such city of the second class shall be entitled to receive in full the sum or sums annually made payable to it by the governing authority of such city by virtue and in pursuance of any such contract or obligation wholly unaffected by the provisions of this Act for raising revenue for library purposes by means of an annual general tax levy within the limits and at the rate hereinbefore provided, and for paying over to the Board of Trustees of such free public library one-half of the net amount of all fines, forfeitures and costs collected in the police court of such city.*

§ 3. *It shall be the duty of said board of trustees to annually estimate the needs of the free public library for the ensuing year and it shall, sixty days before the beginning of the fiscal year submit a statement of such estimated needs to the governing authority of said city and it shall be the duty of said governing authority in making its apportionments and the annual levy for city purposes, to include in its levy the estimated needs, as provided herein, however, not to exceed in any one year five cents (5c) on each one hundred dollars (\$100.00) of taxable property within said city, in addition to such special tax as may be necessary to be levied to comply with the conditions and terms of any contract or obligation that may be or may heretofore have been entered into by said city, as hereinbefore mentioned.*

§ 4. *All laws and parts of laws in conflict with this Act, or any part or provision thereof, are hereby repealed.*

§ 5. *This Act shall be in force from and after its passage and approval as provided by law, and after such passage and approval shall be in full operation with the beginning of the Fiscal Year next ensuing in the cities of the Second Class.*

Senator Buckley offered the following amendments to said bill, viz.:

Amendment No. 1. In line 79 on page 5, strike out "em-  
ply" and insert "employ".

Amendment No. 2. In line 86 on page 5, strike out  
"Then" and insert "When".

Amendment No. 3. In line 116 on page 6, strike out  
"credit" and insert "CREDIT".

Said amendments to said bill were each and severally  
agreed to.

Senator Buckley moved the Previous Question.

Whereupon, the President Pro Tem of the Senate an-  
nounced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third  
time.

Senator Gilbert moved that the Constitutional provision  
as to the third reading at length of said bill be dispensed with  
and same be read the third time by its title only.

Said motion was agreed to by a majority of the members  
elected.

Whereupon, the Constitutional provision as to the third  
reading at length of said bill being dispensed with, and the  
same being engrossed, said bill was read the third time by  
its title only and passed.

The yeas and nays being taken on the passage of said

bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	J. Joseph Hettinger	Paul L. Sidebottom
H. Stanley Blake	H. Watt Hillman	J. E. Trager
Ollie J. Bowen	Leo King	Thomas O. Turner
Leer Buckley	J. W. McDonald	E. T. Wesley
Dr. D. H. Bush	Stanley B. Mayer	Otis White
W. C. Farmer	Strother Melton	O. C. Whitfield
Lee Gibson	E. C. Moore	B. M. Williams
Ralph Gilbert	J. Lee Moore	J. E. Wise
John M. Hall	Ira W. See	J. M. Wolfenbarger

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Resolved that the title thereof be as aforesaid.

Senator Buckley moved that the vote by which said bill was passed be reconsidered and said motion lie on the table.

Said last named motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 53. An Act to repeal Section 574 of the Code of Practice in civil cases, Carroll's Civil Code of Practice, Baldwin's 1932 Edition, relating to taking depositions upon interrogatories.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section 574 of the Code of Practice in civil cases, being Carroll's Civil Code of Practice, Baldwin's 1932 Edition, be and the same is hereby repealed.



Senator J. Lee Moore moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	J. Joseph Hettinger	Paul L. Sidebottom
H. Stanley Blake	H. Watt Hillman	J. E. Trager
Ollie J. Bowen	Leo King	E. T. Wesley
Leer Buckley	J. W. McDonald	Otis White
Dr. D. H. Bush	Stanley B. Mayer	O. C. Whitfield
W. C. Farmer	Strother Melton	B. M. Williams
Lee Gibson	E. C. Moore	J. E. Wise
Ralph Gilbert	J. Lee Moore	J. M. Wolfenbarger
John M. Hall	Ira W. See	

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Resolved that the title thereof be as aforesaid.

Senator J. Lee Moore moved that the vote by which said

bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 71. An Act to amend Section 965, Carroll's Kentucky Statutes, 1936 Edition, and being the time of holding court in the 24th Judicial District composed of Johnson and Martin Counties and fixing the time therefor, relating to Circuit Courts.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ I. That Section 965, Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is amended with reference to the Twenty-Fourth Judicial District of Kentucky, and as amended shall read as follows:

*Johnson County—at Paintsville, Kentucky—beginning on the Second Monday in February, Twenty-four juridical days; Second Monday in June, Twenty-four juridical days; Second Monday in November, Twenty-four juridical days.*

*Martin County—at Inez, Kentucky, beginning on the Third Monday in January, Eighteen juridical days; Third Monday in May, Eighteen juridical days; Third Monday in September, Eighteen days.*

§ II. This Act shall be effective on and after July 1st., 1938.

§ III. All Acts and parts of Acts in conflict herewith are hereby repealed.

Senator See offered the following amendments to said bill, viz.:

Amendment No. 1. Amend Senate Bill 71 by striking out the figures "965" in line one (1), Section one (1), of the printed bill, and inserting in lieu thereof the figures "965-24".

Said amendment was agreed to.

Senator See moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill having been dispensed with, and the same being engrossed, said bill was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	Dr. D. H. Bush	John M. Hall
H. Stanley Blake	W. C. Farmer	J. Joseph Hettinger
Ollie J. Bowen	Lee Gibson	H. Watt Hillman
Leer Buckley	Ralph Gilbert	J. W. McDonald

Stanley B. Mayer	Paul L. Sidebottom	O. C. Whitfield
Strother Melton	J. E. Trager	B. M. Williams
E. C. Moore	E. T. Wesley	J. E. Wise
Ira W. See	Otis White	J. M. Wolfinbarger

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Senator See offered the following amendment to the title of said bill, viz.:

Amend the title to Senate Bill No. 71 by striking from line one (1) the figures "965" and inserting in lieu thereof the figures "965-24".

Said amendment to the title of said bill was agreed to.

Resolved that the title of said bill be as amended.

Senator See moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill of the following title, viz.:

S. B. 82. An Act pertaining to banking, and to amend and reenact Section Five Hundred Ninety-Five (595) Carroll's Kentucky Statutes, One Thousand Nine Hundred Thirty (1930) edition, as amended by Chapter One (1) of the Acts of the Extraordinary Session of the General Assembly of the Commonwealth of Kentucky of One Thousand Nine Hundred Thirty-Three (1933), and as amended by Chapter Twelve (12) of the Acts of the Regular Session of the General Assembly of the Commonwealth of Kentucky of One Thousand Nine Hundred Thirty-Six (1936), so as to provide to the holders of non-assessable preferred capital stock issued by a bank or trust company or combined bank and trust company exemption from assessment to restore impairment of capital and

rights with respect to dividends, voting and conversion rights, control of management and preference in the event of retirement of said stock, or liquidation of the corporation, and prescribing a basis for determination of whether or not there exists an impairment of the capital of a bank or trust company or combined bank and trust company which has issued such stock.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section five hundred ninety-five (595) Carroll's Kentucky Statutes one thousand nine hundred thirty (1930) Edition, as amended by Chapter One (1) of the Acts of the Extraordinary Session of the General Assembly of the Commonwealth of Kentucky of one thousand nine hundred thirty-three (1933), and as amended by Chapter Twelve (12) of the Acts of the Regular Session of the General Assembly of the Commonwealth of Kentucky of one thousand nine hundred thirty-six (1936), be and the same is hereby amended and re-enacted so as to read as follows, to-wit:

“Section five hundred ninety-five (595). Double liability of stockholders; nonassessable preferred stock. The stockholders of each bank organized under this article shall be individually responsible, equally and ratably, and not one for the other, for all contracts and liabilities of such bank to the extent of the amount of their stock at par value in addition to the amount of such stock; but persons holding stock as fiduciaries shall not be personally liable as stockholders, but the estate in their hands shall be liable in the same manner and to the same extent as the property of other stockholders; and no transfer of stock shall operate as a release of any such liability existing at the time of such transfer, provided the action to enforce such liability shall be commenced within two years from the time of the transfer; and the directors of each bank shall, in January of each year, file with the *Director of*



*the Division of Banking* a correct list of the stockholders and officers of such bank.

The additional liability herein imposed upon shareholders in banks organized under the laws of this State shall not apply with respect to shares in any such banks issued after *May 16, 1936*. Such additional liability shall cease on July one (1) one thousand nine hundred thirty-seven (1937), or at such date as the double liability of stockholders in National banks ceases under the National bank laws, with respect to all shares issued by any such bank in this State which shall be transacting the business of banking on the above date; provided, that not less than six months prior to such date such bank shall have caused notice of such prospective termination of liability to be published in a newspaper published in the city, town or county in which such bank is located, and if no newspaper is published in such city, town or county, then in a newspaper of general circulation therein. If such bank fail to give such notice as and when above provided, a termination of such additional liability may thereafter be accomplished as of the date six months subsequent to publication in the manner above provided.

Any bank or trust company, or combined bank and trust company, heretofore or hereafter organized under the laws of this Commonwealth, may issue nonassessable preferred capital stock, of one or more classes, to which the double liability shall not apply, *and the holders of which shall not be liable for assessment to restore impairment in the capital of such corporation.*

Such preferred capital stock shall not be considered as any part of the minimum capital stock required by Sections 577, 598b-2, 603, 612a or 883c-1 Kentucky Statutes, Carroll's Edition one thousand nine hundred thirty-six (1936), but shall be considered a part of the 'capital stock' of such bank or trust company, or combined bank and trust company, for all other purposes, and in the case of existing corporations shall

be issued in the manner now provided for increasing capital stock.

The holders of such preferred capital stock shall be entitled to receive such cumulative dividends at a rate not exceeding six (6) per centum per annum *of the amount received by the banking corporation in payment of such preferred stock*, and shall have such voting and conversion rights, and such control and management, *and such stock shall be subject to retirement at such price, with such premium, in such manner and upon such conditions as may be provided in the original or amended articles of incorporation, and, if the corporation is placed in voluntary liquidation, receiver or liquidator is appointed therefor, no payment shall be made to the holders of common stock until the holders of such preferred stock shall have been paid in full such amount, not in excess of the amount received by the corporation in payment for such stock plus an amount equal to all unpaid dividends thereon accrued to date of payment, as may be provided in the original or amended articles of incorporation.*

No issue of preferred stock shall be valid until the par value of all stock so issued shall be paid in.

*If any part of the capital stock of a bank or trust company, or combined bank and trust company organized under the laws of this State consists or shall consist of such preferred capital stock, the determination of whether or not the capital of such bank or trust company, or combined bank and trust company is impaired, and the amount of such impairment shall be based upon the par value of its stock, even though the amount which the holders of such preferred stock shall be entitled to receive in the event of retirement or liquidation shall be in excess of the par value of such preferred capital stock."*

Senator Gibson offered the following amendment to said bill, viz.:

Amend Senate Bill 82, on page 3, in line 47, by striking

therefrom the words "shall not" after the word "stock" and insert in lieu thereof the word "may" and in striking from the same line the word "any" between the words "as—part" and amend said bill on said page beginning after the word "stock" on line 48, and striking therefrom all the balance of said line and including line 49, 50, 51 and the words "all other purposes" in line 52.

Said amendment was agreed to.

Senator Gibson moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	J. Joseph Hettinger	J. E. Trager
H. Stanley Blake	H. Watt Hillman	E. T. Wesley
Ollie J. Bowen	Leo King	Otis White
Leer Buckley	Stanley B. Mayer	O. C. Whitfield
Dr. D. H. Bush	Strother Melton	B. M. Williams
W. C. Farmer	E. C. Moore	J. E. Wise
Lee Gibson	J. Lee Moore	J. M. Wolfenbarger
Ralph Gilbert	Ira W. See	
John M. Hall	Paul L. Sidebottom	—25

Resolved that the title to said bill be as aforesaid.

Senator Gibson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Senator Mayer moved that the rules be suspended for the purpose of allowing Committees to report.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Mayer, Chairman of the Committee on Insurance, to which same had been previously referred, reported a bill of the following title, viz.:

S. B. 124. An Act to amend Section 199a-11 of Carroll's Kentucky Statutes, 1936 Edition.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 78. An Act to amend and re-enact Section 165a-9 of Carroll's Kentucky Statutes, 1936 Edition, relating to fees for examination of banks.

Senator Gilbert moved that said bill be allowed to retain its place in the Orders of the Day.

Said motion was agreed to.

The Senate then took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 81. An Act to repeal, amend and re-enact Sections 165a-15 and 586 of Carroll's Kentucky Statutes 1936 Edition, relating to the impairment of a bank's capital, duty of bank and Director of the Division of Banking, reduction of capital and how impairment shall be made good.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Sections one hundred sixty-five a-fifteen (165a-15) and five hundred eighty-six (586) of Carroll's Kentucky Statutes, one thousand nine hundred thirty-six (1936) Edition, be and are hereby repealed, amended and re-enacted, so that, when thus re-enacted, the reading shall be as follows, to-wit:

Section one hundred sixty-five a-fifteen (165a15). Whenever it shall appear that the capital stock of any bank has been impaired, the *Director of the Division of Banking of the Department of Business Regulation*, shall notify such bank and each director thereof, to make such impairment good within thirty days, and it shall be the duty of the officers and



directors of any bank receiving such notice from the *Director of the Division of Banking* immediately to call a special meeting of its stockholders for the purpose of making assessments on its stock sufficient to cover the impairment of its capital, payable in cash: Provided, that such bank may with the consent of the *Director* reduce its capital to the extent of the impairment, if such reduction will not place its capital below the amount required by law.

*The board of directors of every bank whose capital shall have become impaired by losses or otherwise, shall, within thirty days after receiving notice from the Director of the Division of Banking assess the deficiency in such capital upon the stockholders, to be paid in cash, pro rata for the amount of capital stock held by each. Notice of the amount so assessed upon each stockholder and that, if the same is not paid within the time herein limited, a sufficient amount of his stock will be sold as herein provided, shall be given to him by registered mail. If any stockholder of such bank neglects or refuses to pay such assessment within sixty days after receipt of such notice, it shall be the duty of the board of directors to cause a sufficient amount of the stock of such stockholder to be sold at either public or private sale, to make good the deficiency, and the balance, if any, shall be returned to such delinquent stockholder. If the directors of such bank shall fail for thirty days after such notice to levy such assessment, the Director of the Division of Banking may, with the advice and consent of the Attorney-General, institute such proceedings as may be necessary to wind up the affairs of the bank. If any bank shall fail to cause to be paid in such deficiency in its capital stock for ninety days after receiving such notice from the Director of the Division of Banking, the Director of the Division of Banking may forthwith institute such proceedings as may be necessary to wind up the affairs of the bank.*

*A sale of stock as provided in this section shall effect an absolute cancellation of the outstanding certificate, or certificates, evidencing the stock so sold, and shall make said cer-*

*tificate, or certificates, null and void, and a new certificate, or certificates, shall be issued by the bank to the purchaser of such stock.*

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	John M. Hall	Paul L. Sidebottom
H. Stanley Blake	J. Joseph Hettinger	J. E. Trager
Ollie J. Bowen	H. Watt Hillman	E. T. Wesley
Leer Buckley	Leo King	Otis White
Dr. D. H. Bush	Stanley B. Mayer	O. C. Whitfield
W. C. Farmer	Strother Melton	J. E. Wise
Lee Gibson	J. Lee Moore	J. M. Wolfinbarger
Ralph Gilbert	Ira W. See	—22

Resolved that the title thereof be as aforesaid.

Senator Gibson moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Senate then took up for consideration from the Orders of the Day a bill entitled, viz.:

H. B. 11. An Act to amend and re-enact Chapter 65, Article 5, Section 17 of the Acts of the General Assembly of the Commonwealth of Kentucky enacted at its 1934 Regular Session and effective June 14, 1934. Said act relating to the qualifications of board members, and being edited as Section 4399-22, Baldwin's Kentucky Statutes, 1936 Edition.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Chapter 65, Article 5, Section 17 of the Acts of the General Assembly of Kentucky at its Regular 1934 Session be amended and re-enacted and when so amended and re-enacted shall read as follows:

A person to be eligible to membership on a board of education must have attained the age of twenty-four years, must have been a citizen of the Commonwealth of Kentucky for at least three years preceding his election and must be a voter of the district for which he is elected. He must have completed at least the eighth grade in the common schools as shown (a) by the records of the school in which said eighth grade was completed; or (b) by affidavits of the teacher or teachers under whom the work was completed; or (c) by an examination to be held under such rules and regulations as may be adopted by the State Board of Education for holding such an examination. He must not hold or discharge the duties of any civil or political office, deputyship, or agency under the city or county of his residence. A board member shall be eligible for re-election unless he becomes disqualified as herein provided.

No member of a board of education shall vote regarding

the appointment or employment in any capacity of any person related to such member as father, mother, brother, sister, husband, wife, son daughter nephew niece aunt, uncle, son-in-law, daughter-in-law, or first cousin and the majority vote of the remainder of the board shall be required in case of appointment or employment of such person.

No person shall be eligible to this office who at the time of his election is directly or indirectly interested in the sale to the board of books stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended. If, at any time after the election of any member of such board, he shall become interested in any such contract with or claims against the board, or if he shall after election become a candidate for any office or agency for the nomination thereto, the holding and the discharging of the duties of which would have rendered him ineligible before election, or if he shall move his residence from the district for which he was chosen or if he shall do or incur anything which would have rendered him ineligible for re-election, his office shall without further action be vacant, and it shall be filled as hereinafter provided.

No person shall be eligible to serve as a member of a board of education who has been removed from membership on a board of education for cause.

All laws or parts of laws in conflict herewith are hereby repealed.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and the same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provisions of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	John M. Hall	Paul L. Sidebottom
H. Stanley Blake	J. Joseph Hettinger	J. E. Trager
Ollie J. Bowen	H. Watt Hillman	E. T. Wesley
Leer Buckley	J. W. McDonald	Otis White
Dr. D. H. Bush	Strother Melton	O. C. Whitfield
W. C. Farmer	E. C. Moore	J. E. Wise
Lee Gibson	J. Lee Moore	J. M. Wolfenbarger
Ralph Gilbert	Ira W. See	—23

Resolved that the title thereof be as aforesaid.

Senator Gilbert moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Senator Gilbert moved that the Senate do now adjourn.

Said motion was agreed to.

And then the Senate adjourned.

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## TUESDAY, FEBRUARY 1, 1938

The Senate convened and was called to order by Senator Edwin C. Dawson, President Pro Tem of the Senate, presid-



ing in the absence of the Honorable Keen Johnson, President of the Senate and Lieutenant Governor of the Commonwealth.

The Senate was opened with prayer by the Reverend Walter Cropper, pastor of the Methodist Episcopal Church, South, Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	John M. Hall	Ira W. See
Aubrey Barbour	J. Joseph Hettinger	Paul L. Sidebottom
Paul M. Basham	H. Watt Hillman	Jos. P. Tackett
H. Stanley Blake	Wm. H. Jones, Jr.	J. E. Trager
Ollie J. Bowen	Leo King	Ervine Turner
Leer Buckley	J. W. McDonald	Thomas O. Turner
Dr. D. H. Bush	Stanley B. Mayer	E. T. Wesley
Waller A. Crockett	Strother Melton	Otis White
Edwin C. Dawson	E. C. Moore	O. C. Whitfield
W. C. Farmer	J. Lee Moore	B. M. Williams
Lee Gibson	Ray B. Moss	J. E. Wise
Ralph Gilbert	James C. Rogers	J. M. Wolfinbarger

Senator Buckley moved that the reading of the Journal of the proceedings of Monday, January 31st, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.

Senator J. Lee Moore moved that the rules be suspended and the Clerk of the Senate be directed to report immediately to the House the action of the Senate concerning a bill of the following title, viz.:

S. B. 34. (For title see S. J. of Monday, January 31st, 1938.)

Senator Buckley offered to amend said motion as made

by Senator Moore as follows, viz.: And the action of the Senate concerning a bill of the following title, viz.:

S. B. 90. (For title see S. J. of Monday, January 31st, 1938.)

Said amendment was then agreed to.

Whereupon, said motion as amended was agreed to.

Senator Jones moved that the rules be suspended and the privilege of the floor be extended to the Honorable W. Yancey Handy of Cave City, Kentucky.

Said motion was unanimously agreed to.

Senator Buckley moved that the rules be suspended and the privilege of the floor be extended to Mr. Charles Wylie of Lexington, Kentucky.

Senator Basham moved that the rules be suspended and the privilege of the floor be extended to Judge Harry Wilson, former Senator A. A. Demumbrun, Dr. and Mrs. E. R. Pohl, and Mrs. Mary Austin of Munfordsville, Kentucky, and former Senator Joe Stewart of Horse Cave, Kentucky.

Said motion was unanimously agreed to.

### INTRODUCTION OF BILLS

Bills and resolutions of the following titles were introduced, ordered printed and referred, as follows, viz.:

By Senator Hillman.

S. B. 153. An Act authorizing and directing the Department of Highways to take over and maintain the highway

leading from Olive Hill by way of Smokey Valley and Wesleyville to Carter in Carter County.

Said bill reads as follows, viz.:

WHEREAS, the above highway is a part of the primary systems of the highways of Kentucky and,

WHEREAS, the Federal Government through the Works Progress Administration has constructed a highway over said route of the type and specifications required by the Department of Highways, now therefore,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the Department of Highways, be, and it is hereby ordered and directed to take over and maintain said highway leading from Olive Hill by way of Smokey Valley and Wesleyville to Carter in Carter County, Kentucky.

To Committee on Roads & Highways.

By Senator McDonald.

S. B. 154. An Act to repeal, amend and re-enact Section 762A-14A Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to maintenance of an office within this Commonwealth by insurance agents.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section Seven hundred sixty-two A Fourteen A (762A-14A), of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, relating to maintenance of an office within this Commonwealth by insurance agents be amended and re-enacted so that said Section shall read as follows:

An insurance agent, as defined in Section One (a) of this act, shall maintain an office within this Commonwealth and

shall keep therein at all times a complete permanent record of all applications for any policies of insurance placed by or through him or it and he shall not sign any policies in blank to be issued outside of his or its office and he shall be a bona fide resident of this Commonwealth duly authorized, in writing, by any insurer lawfully qualified to transact the business of insurance in this Commonwealth and he shall comply with all the rules and regulations prescribed and promulgated by the Insurance Commissioner. And provided further that in cities and towns located partly within and partly without this state the requirements of this section as to residence and principal place of business of agents shall be construed as met, if such agents shall have his residence or principal place of business in any part of such city or town and the other state in which such city or town is located shall have established, by law or regulation, like requirements as to residence and place of business of such agents.

To Committee on Kentucky Statutes No. 2.

By Senator Gibson.

S. B. 155. An Act fixing the time of holding court in the 6th Judicial District composed of Daviess, Hancock and McLean Counties and to that extent amending Section 7 of an Act entitled, "An Act creating the 38th Judicial District, of Kentucky, fixing the time of holding courts thereof; changing the Sixth, Seventh and Eighth Judicial Districts and fixing the time of holding the courts thereof; providing for the appointment and election of a Circuit Judge and a Commonwealth's Attorney for the 38th Judicial District; and declaring an emergency to exist," and which said Act was heretofore passed by the present Legislature and became a law on the 20th day of January, 1938.

Said bill is as follows. viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That the Courts shall be held in the Sixth Judicial District as follows:

DAVIESS COUNTY AT OWENSBORO

On the First Monday in January, 18 Juridical days  
On the First Monday in February, 18 Juridical days  
On the Third Monday in May, 12 Juridical days  
On the Second Monday in June, 18 Juridical days  
On the Second Monday in September, 12 Juridical days  
On the First Monday in October, 18 Juridical days  
On the First Monday in December, 12 Juridical days

HANCOCK COUNTY AT HAWESVILLE

On the Fourth Monday in February, 12 Juridical days  
On the First Monday in July, 12 Juridical days  
On the Fourth Monday in October, 12 Juridical days

MCLEAN COUNTY AT CALHOUN

On the Third Monday in March, 12 Juridical days  
On the First Monday in May, 12 Juridical days  
On the Third Monday in July, 12 Juridical days  
On the Second Monday in November, 12 Juridical days  
This Act shall be effective on and after August 1, 1938.  
All laws and parts of laws in conflict herewith are hereby repealed.

To Committee on Courts and Legal Procedure.

By Senators Trager & Mayer.

S. B. 156. An Act to amend and re-enact Section 1055 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being known as Chapter 221 of the Acts of the General Assembly of 1893, as amended by Chapter 96, Section 1 of the



Acts of the General Assembly of 1934; further providing for the keeping of record books by the Judge of the Quarterly Court; further providing for the appointment of the Clerk of the Quarterly Court; further providing for the appointment of a Clerk and five Deputy Clerks of Quarterly Courts in counties containing a population of 250,000 or more, fixing their compensation and providing for their rights, powers and duties, and specifically providing for the taking of all bonds and recognizances to be given by persons arrested in such counties, for their appearances before the Court of any Justice of the Peace of such county, the Judge of the County Court, and the Judge of the Quarterly Court; and declaring an emergency.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 1055 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, is hereby repealed and re-enacted so that when it is re-enacted it shall provide as follows:

Section 1055. The Judge of the Quarterly Court shall keep a record of all of his official acts out of term time, and shall keep a docket, order book and execution book, in which shall be recorded as Clerks are required to do, the proceedings of the Court, and shall fix a rule day for the return of executions and other processes. The record books shall be paid for by the County. He may appoint a Clerk of his Court who shall have power to file papers and issue all processes and administer the oaths, and to issue warrants of arrest and criminal summons for offenses within the jurisdiction of said Court, after there has been filed before said Clerk the proper affidavit.

Section 1055a-1. In Counties having a population of 250,000 or more the County Judge elected at a regular election for said office, shall, on the first Monday in July succeeding his election, appoint for a period of four years a Clerk

and five Deputy Clerks of the Quarterly Court, who shall have the power to file papers and issue all processes, and for their services the Clerk shall be paid at the rate of \$3000.00 per annum and each of the Deputy Clerks at the rate of \$1500.00 per annum, said salaries to be paid in monthly installments by the Fiscal Court of the County in which said Clerk and his Deputies are appointed, out of the County Treasury, from money raised for County Purposes and fees collected from the Quarterly Court shall be paid into the Treasury of the County. Said Collections to be made by the Clerk, who shall monthly settle with the County Judge and pay the amount found by such settlement in his hands immediately into the County Treasury.

Section 1055a-2. The Clerks of the Quarterly Courts held in such Counties shall collect upon each civil action or civil proceeding commencing with original process in said Quarterly Courts, except upon appeals from the orders and judgments of Fiscal Courts, Police Courts, having civil jurisdiction, and Courts of Justices of Peace, the sum of \$1.50 which sum shall be collected when each civil action or civil proceeding is instituted and shall be applied as a credit upon the Clerk's or Judge's costs accrued in the respective civil actions and proceedings, and such funds, after collection shall be accounted for by the said Clerks and disposed of as hereinabove provided.

Section 1055-3. Said Clerks and Deputies shall, before entering upon the discharge of their duties, execute bond before the County Court with security approved by the Court, to the Commonwealth of Kentucky, for the faithful performance of their duties.

Section 1055a-4. In addition to their other duties as Clerks of the Quarterly Court the Clerks of Quarterly Courts and their deputies in Counties having a population of 250,000 or more shall take all bonds required by law to be taken, or given, by persons arrested in such counties in which they are appointed, for the appearance of such arrested persons

before the Court of any Justice of the Peace of such County, before the Judge of the County Court, and before the Judge of the Quarterly Court, and when any person is arrested under a warrant issued by such Quarterly Court or is arrested without a warrant and is slated by the arresting officer to appear for a hearing before such Quarterly Court, such Clerks shall have the exclusive right to take the bond for the appearance of such persons so arrested and shall also take all bonds or recognizances required by law to be taken or given in the Quarterly Court and County Court of such counties. Such Clerks shall charge for their services in taking, receiving and recording said bonds, a fee of \$1.00 for each bond taken, such fees to be paid by the party for whom the services are rendered at the time each such bond is taken. Such Clerks or one of their Deputies shall be in their office at all hours, day and night, for the purpose of taking bonds. All bonds and affidavits shall be returned within 24 hours to the proper tribunal. Such Clerks shall keep a record of all bonds taken by them, showing the date, amount of bill, name of defendant and the charge under which the arrest was made.

Whereas, it is deemed important by the General Assembly that in counties containing a population of 250,000 or more, the Clerk of the Quarterly Court, or one of his deputies shall, as soon as possible, be in their office at all hours, day and night, for the purpose of taking bonds, an emergency is hereby declared to exist, and this Act shall become effective immediately upon its passage and approval by the Governor.

To Committee on Courts and Legal Procedure.

By Senator Mayer.

S. B. 157. An Act providing penalties for fraud on hotel keepers and innkeepers, and repealing Section 5 of Chapter 12 of the Acts of the General Assembly of the Commonwealth of Kentucky in the year 1896, now constituting

Section 2179a-5 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition and all other Acts inconsistent herewith.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Any person who obtains any lodging, food or other accommodations at a hotel, apartment hotel, inn, boarding house or lodging house, without paying therefor, with intent to defraud the proprietor thereof; or who obtains credit or accommodations at such hotel, apartment hotel, inn, boarding house or lodging house, by the use of any false pretense or false representation; or who, after obtaining credit or accommodation at such hotel, apartment hotel, inn, boarding house or lodging house, by the use of any false pretense or false representation; or who, after obtaining credit or accommodation at such hotel, apartment hotel, inn, boarding house or lodging house, moves his or her baggage, without the permission or consent of the proprietor, manager or authorized employee thereof, before paying for such lodging, food or other accommodation, is guilty of a misdemeanor, punishable by a fine in any sum not exceeding \$200.00, or imprisonment in the County Jail not exceeding six months or both, in the discretion of the court or jury trying the case.

§ 2. Proof that lodging, food or other accommodation was obtained by false or fictitious showing or pretense of baggage, or that the person refused or neglected to pay for such food, lodging or other accommodation upon demand, or that he or she departed from or left the premises without paying for such food, lodging or other accommodation, shall be presumptive evidence of the fraudulent intent mentioned in the preceding section; but this section shall not apply in cases where there has been a special agreement for extension of credit made at or before the food, lodging or other hotel accommodations have been furnished.

§ 3. An apartment hotel, within the meaning of this

Act, includes a hotel wherein apartments are rented for fixed periods of time, either furnished or unfurnished, to the occupants of which the keeper of such hotel supplies food, if required.

§ 4. Section 5 of Chapter 12 of the Acts of 1896 of the General Assembly of the Commonwealth of Kentucky, now constituting Section 2179a-5 of Carroll's Kentucky Statutes, Baldwin's 1936 Edition, and all other Acts or parts of Acts inconsistent or in conflict herewith are hereby repealed.

To Committee on Criminal Law.

By Senator Mayer.

S. B. 158. An Act authorizing the County Judge, in counties containing a City of the first class, to appoint an assistant trial Commissioner.

Said bill is as follows, viz.:

WHEREAS in counties containing a City of the first class, intensive, industrial and commercial development and consequent density of population have combined to induce definitely changed conditions of life by reason of which the demands upon the County Court, in Counties containing a City of the first class, are continuous, voluminous and exacting, and by reason of which the administration of justice within the jurisdiction of such courts is now wholly inadequate, NOW THEREFORE,

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. The Judge of the County Court, in each County in this Commonwealth wherein is located a City of the first class, is hereby authorized to appoint an Assistant Trial Commissioner, who shall hold office at the pleasure of the Judge, and shall discharge such judicial duties as may be assigned to him by the Judge.



The Assistant Trial Commissioner shall report his actions to the Judge for the approval or disapproval of the Judge.

The Assistant Trial Commissioner must possess the qualifications of a Judge of the County Court, and shall receive a salary to be fixed by the Fiscal Court of the County not exceeding Twenty-five Hundred Dollars (\$2500.00) per annum, and shall be paid in the same way as the County Judge is paid.

§ 2. Owing to the congested condition of the docket of said Court, and whereas it is to the interest of the orderly conduct of the business of said Court, an emergency is hereby declared, and this Act will be effective upon its passage and approval by the Governor.

To Committee on Judiciary.

By Senator Williams.

S. Res. 39. A resolution authorizing Edd Johnson to file suit against the Commonwealth of Kentucky or the State Highway Commission, or either, or both of them.

Said resolution is as follows, viz.:

WHEREAS, on the May 3, 1936, one Edd Johnson, was seriously and permanently injured by falling through a hole in the floor of the public bridge across Cumberland River at Wallins Creek, Harlan County, Kentucky; and,

WHEREAS, the said bridge forms a part of the public highway of the Commonwealth of Kentucky and the same is maintained and kept in repair by the State Highway Commission of Kentucky or the Commonwealth of Kentucky, or one or both of them, and their employees:

NOW, in order to determine by judicial action the question of negligence causing said injuries as aforesaid,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Edd Johnson, in his own right and name, be and he is hereby empowered and authorized to file and prosecute appropriate action or actions against the State Highway Commission of Kentucky or the Commonwealth of Kentucky or either or both of same for the purpose of determining the liability of the State Highway Commission of Kentucky or the Commonwealth of Kentucky or either or both of them for such injuries, if any there be.

§ 2. Such actions may be brought at any time within two years after passage of this resolution, and in any circuit court of the Commonwealth of Kentucky which may have jurisdiction of such matters, or may be joined with any action or actions pending wherein circuit courts have competent jurisdiction of the subject matter and parties.

§ 3. Said suit for Edd Johnson for personal injuries received by him shall be for any sum not exceeding \$5,000 and in the event any judgment is recovered by said Edd Johnson for personal injuries received by him or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the General Fund.

§ 4. Either party of said suit may appeal from any judgment which may be entered therein as in any other civil suit, and the case may be settled and adjusted by and with the consent and approval of the Attorney General of Kentucky in the same way as any other civil case may be settled or adjusted.

To Committee on Kentucky Statutes No. 1.

By Senator Williams.

S. Res. 40. A resolution authorizing Jim Sears to file

suit against the State Highway Commission of Kentucky or the Commonwealth of Kentucky or either or both of them.

Said resolution is as follows, viz.:

WHEREAS, on the 16th day of September, 1936, Earnest Sears was injured from which he died the next day by being hit by an automobile traveling along the state highway at or near Dixie Town, County of Harlan, State of Kentucky; and,

WHEREAS, the said State Highway Commission of Kentucky, or the Commonwealth of Kentucky, one or both of them, had piled and dumped, or permitted others to pile and dump, large numbers and amounts of old automobiles and automobile wreckage and parts, and other waste material on the right of way of said state highway, on the inside of said curve and so close to the traveled part of said highway and in such a way and manner as to obstruct the view of persons driving or traveling over, along, or across said state highway; and,

WHEREAS, the view of the driver of said automobile and the said deceased, Earnest Sears, was obstructed by said automobiles and wreckage and other refuse which contributed to or caused the injury and subsequent death of the said Earnest Sears; and,

WHEREAS, Jim Sears, the father of the said Earnest Sears has been appointed and is now the legally qualified and acting administrator of the estate of the said Earnest Sears, deceased:

NOW, in order to determine the question of negligence causing the injuries and death of Earnest Sears as aforesaid,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Jim Sears, as the administrator of the estate of Earnest Sears, deceased, be and he is hereby authorized to file and prosecute appropriate action or actions against the Commonwealth of Kentucky or the State Highway Commis-

sion of Kentucky, either or both, for the purpose of determining the liability of the Commonwealth of Kentucky or the State Highway Commission of Kentucky, either or both, for said injuries, to, death of, and damages to the estate of, Earnest Sears, if any there be.

Such action or actions may be brought within two years from the passage of this resolution and in any circuit court of the Commonwealth of Kentucky which may have jurisdiction of such matters as provided by the code and laws of the State of Kentucky in such cases, and may be joined with any action or actions pending wherein circuit courts have competent jurisdiction of the subject matter and parties.

Said suit, by Jim Sears for injuries to, death of, and damages to the estate of, Earnest Sears shall be for any sum not exceeding \$10,000, and in the event any judgment is recovered by the said Jim Sears for said injuries to, death of, and damages to the estate of, Earnest Sears, or same is compromised or settled, same shall be paid by the Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the General Fund.

Either party to said suit or suits may appeal from any judgment which may be entered therein, as in any other civil action, and the case may be settled and adjusted by and with the consent and approval of the Attorney-General of the State of Kentucky in the same way and manner as any other civil action may be settled or adjusted.

To Committee on Kentucky Statutes No. 1.

By Senator Wesley.

S. Res. 41. A Joint Resolution of the Senate and House for the payment of witness claims herein mentioned.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

A joint resolution for the payment of witness fees to

Obey Bell, M. N. Meece, Sophia Dykes, Elizabeth Whitaker, J. F. Whitaker, J. G. Bell, Elmer Rainey, W. F. Dykes, Sam Farmer and M. F. Beasley, for their attendance as witnesses in the Pulaski Circuit Court.

WHEREAS, the above named persons were duly subpoenaed by the sheriff of Pulaski County as witnesses in the case of Commonwealth of Kentucky vs. ...., their fees were allowed by the Court, but are yet unpaid, because the Auditor of Public Accounts refused payment on the grounds that the claims were barred by the Statute of Limitation; and

WHEREAS at the Regular 1936 session of the General Assembly a joint resolution was passed directing the payment of said claims and;—

WHEREAS, It appears that the payment was again refused by the Auditor because no appropriation was made for the payment of same,

Now therefore Be it Resolved by the General Assembly of the Commonwealth of Kentucky that the sum of eighteen dollars (\$18.00) the aggregate amount of said witness claims be and same is hereby appropriated to pay to the said Obey Bell, M. B. Meece, Sophia Dykes, Elizabeth Whitaker, J. G. Bell, J. F. Whitaker, Sam Farmer, Elmer Rainey, W. F. Dykes, and W. F. Beasley or to their assigns, and the Auditor of Public Accounts is now directed to draw his warrant upon the Treasurer for said amount.

To Committee on Courts & Legal Procedure.

By Senator Attkisson.

S. Res. 42. Resolution providing that December 12th shall be known as “Kentucky Day”.

Said resolution is as follows, viz.:

WHEREAS, It is important that the people of a state should know their state, in its material wealth and natural



resources, in the beauty of its scenery, but most of all in the history of its past, and of the men and women who have been a part of its life; and

WHEREAS, December 12th, 1749 was the date on which Dr. Thomas Walker agreed to make the first survey of Kentucky, and though he did not begin work until some months later, this date is one to be remembered,

THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE COMMONWEALTH OF KENTUCKY that December 12th shall be known as Kentucky Day.

This is not to be a legal holiday, but is to be observed annually, in the schools, by clubs and patriotic societies, and by Kentuckians generally, in order that the people of Kentucky may know the state better, and take a deeper interest in its welfare.

To Committee on Library & Historical Records.

Senator Mayer requested that he be allowed to withdraw a bill introduced by him on January 17th, 1938, entitled, viz.:

S. B. 63. An Act to make safer public roads, streets and highways and constituting stopping or interfering with traffic or travel on the public highways, roads and streets of the Commonwealth of Kentucky for the purpose of advertising or soliciting trade or patronage for any business, occupation or enterprise, a misdemeanor and authorizing relief by injunction against persons, firms or corporations guilty of such practices; repealing all laws and parts of laws in conflict with the provisions of this act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. It shall be unlawful, for the purpose of advertising

or soliciting trade or patronage, for any person, firm, or corporation, by or through its agents or employees, to stop, solicit, or interfere with, or attempt to stop or interfere with traffic and travel of vehicles and persons on the public highways, public roads and streets in the Commonwealth of Kentucky and such use of and conduct on such highways, roads and streets is now forbidden. Any person, firm or corporation or its agents or employees who shall violate any provision of this Act is guilty of a misdemeanor and upon conviction shall be fined not less than \$5.00 nor more than \$100.00 for each offense.

§ 2. Any person, firm or corporation or its agents or employees who shall violate any provision of this act shall also be guilty of a public nuisance and the State Highway Commission or any State Agency or any competitor or other person, firm or corporation engaged in business shall have the right to maintain an action in equity in the Circuit Court of the County wherein the offense was committed, to perpetually enjoin any person, firm or corporation, its agents or employees from further violating any of the provisions of this Act.

§ 3. All laws and parts of law in conflict herewith are hereby repealed to the extent of such conflict. If any part or portion or the application of such parts or portions of this Act shall be held unconstitutional or invalid for any reason, the remainder of the Act shall remain in full force and effect.

By unanimous consent, said request was granted and said bill was withdrawn.

## REPORTS OF COMMITTEES

Senator Williams, Chairman of the Committee on Mines and Mining, to which same had been previously referred, reported a bill of the following title, viz.:

S. B. 130. An Act relating to the production of oil and gas.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

### CALENDAR

The Senate took up for consideration from the Calendar a bill entitled, viz.:

S. B. 124. An Act to amend Section 199a-11 of Carroll's Kentucky Statutes, 1936 Edition.

Senator Wise moved that the Constitutional provision as to the second reading at length of said bill be dispensed with and same be read for the second time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the second reading at length of said bill being dispensed with, said bill was read the second time by its title only and

Ordered placed in the Orders of the Day.

### ORDERS OF THE DAY

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 11. An Act requiring the operators of all vehicles to stop before passing a school bus upon a public highway

which shall be stopped for the purpose of receiving or discharging passengers, and providing penalty for violation.

With committee amendment thereto.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Whenever any school bus is stopped upon a public highway for the purpose of receiving or discharging passengers, every operator of a vehicle approaching from any direction shall bring said vehicle to a complete stop and shall not start up or attempt to pass until the said school bus has finished receiving or discharging passengers; and anyone found guilty of violating the provisions of this Act shall be deemed guilty of a misdemeanor, and punished upon conviction by a fine of not more than Five Hundred (\$500.00) Dollars or imprisoned in jail for not more than six months or both so fined and imprisoned.

Said amendment as proposed by the committee is as follows, viz.:

Amend Senate Bill 11, line 5, after the word "passengers" by adding "that the driver of said bus after having stopped for the purpose of receiving or discharging passengers shall permit all vehicles stopped as required herein to proceed before again putting the school bus in motion"

Senator Buckley moved that the Senate do now adopt said amendment to said bill as proposed by the committee.

Said motion was agreed to.

Thereupon, said amendment was agreed to.

Senator Buckley then offered the following amendment to said bill, viz.:

In line 3 after the word, "direction", insert the following words: "on the same highway"

Said amendment as offered by Senator Buckley was agreed to.

Senator Buckley moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, and same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill, in accordance with the provision of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	Ollie J. Bowen	W. C. Farmer
Aubrey Barbour	Leer Buckley	Lee Gibson
Paul M. Basham	Dr. D. H. Bush	Ralph Gilbert
H. Stanley Blake	Waller A. Crockett	J. Joseph Hettinger



H. Watt Hillman	J. Lee Moore	Thomas O. Turner
Leo King	Ray B. Moss	E. T. Wesley
J. W. McDonald	James C. Rogers	Otis White
Stanley B. Mayer	Ira W. See	O. C. Whitfield
Strother Melton	J. E. Trager	J. M. Wolfenbarger
E. C. Moore	Ervin Turner	—29

Resolved that the title thereof be as aforesaid.

Senator Buckley moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Senator Buckley moved that leaves of absence be granted to all absent Senators.

Said motion was agreed to.

Senator See moved that the vote by which the motion to reconsider and lay on the table the vote by which

S. B. 71. (For title see S. J. of Monday, January 31st, 1938.)

Was passed be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration.

Senator See moved that the vote by which said bill was passed be reconsidered.

Said motion was agreed to.

Said bill reads as follows, viz.:

(For bill see S. J. of Monday, January 31st, 1938, ante.)

Thereafter such reconsideration.

Senator See moved that the vote by which the Previous Question was ordered be reconsidered.

Said motion was agreed to.

Thereafter such reconsideration.

Senator See offered the following amendments to said bill, viz.:

Amendment 3. Amend Senate Bill 71 by adding the word "juridical" after the word "eighteen" in line 11 on page 1.

Said amendment was agreed to.

Senator See then moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

Senator See moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, and the same being engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	J. Joseph Hettinger	James C. Rogers
Aubrey Barbour	H. Watt Hillman	Ira W. See
Paul M. Basham	Wm. H. Jones, Jr.	Paul L. Sidebottom
H. Stanley Blake	Leo King	J. E. Trager
Ollie J. Bowen	Stanley B. Mayer	Ervine Turner
Leer Buckley	J. W. McDonald	Thomas O. Turner
Dr. D. H. Bush	Strother Melton	E. T. Wesley
W. C. Farmer	E. C. Moore	Otis White
Lee Gibson	J. Lee Moore	O. C. Whitfield
Ralph Gilbert	Ray B. Moss	J. E. Wise

—30

Resolved that the title thereof be as aforesaid.

Senator See moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Senate took up for consideration from the Orders of the Day a bill of the following title, viz.:

S. B. 57. An Act to authorize fiduciaries to invest trust funds in real estate; to authorize a trust company or a bank, empowered to act as a fiduciary under the laws of the State of Kentucky, to establish a common trust fund under a written plan to be approved by the Kentucky State banking authority; to authorize the amendment or modification of any such

plan with the approval of the Kentucky State banking authority; and to authorize such trust company or bank to invest trust funds in its hands in shares or participation certificates issued against such common trust fund.

Senator E. C. Moore moved that consideration of said last named bill be made a special order of business for the hour of eleven o'clock, A. M., February 2nd, 1938.

Said motion was agreed to.

The Senate then took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 46. An Act creating the Kentucky State Fair Board; providing for its membership, their compensation and expenses, and prescribing its powers and duties; providing for liens on property of exhibitors and concessionaires to secure indebtedness due from them to said Board, and for the enforcement of such liens.

Senator Gilbert moved that consideration of said last named bill be made a special order of business for the hour of two o'clock, P. M., today.

Said motion was agreed to.

The Senate then took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 56. An Act to repeal and re-enact Section 2043-12, Carroll's Kentucky Statutes, 1930 Edition, Supplement 1933, the same being Section 12 of Chapter 68 of the Acts of 1930, repealed, amended, and re-enacted by Chapter 54 of the Acts of 1936 and entitled, "An Act concerning the manner of commitment of incompetent veterans of the World War who are beneficiaries of World War Veterans' Act as amended; and

regulating the appointment, defining the duties and governing the actions of guardians and committees for beneficiaries of the World War Veterans' Act, as amended, and the World War Adjusted Compensation Act, as amended," and declaring an emergency to exist.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section two thousand forty-three-twelve (2043-12), Carroll's Kentucky Statutes, one thousand nine hundred thirty (1930) Edition, Supplement one thousand nine hundred thirty-three (1933), being Chapter twelve (12) of Chapter sixty-eight (68) of the Acts of the General Assembly, one thousand nine hundred thirty (1930), and being Chapter fifty-four (54) of the Acts of the General Assembly, one thousand nine hundred thirty-six (1936), relating to the manner of commitment of incompetent veterans of the World War who are beneficiaries of the World War Veterans' Act as amended; and regulating the appointment, defining the duties and governing the actions of guardians and committees for beneficiaries of the World War Veterans' Act, as amended, and the World War Adjusted Compensation Act, as amended, be and the same is hereby repealed, amended and re-enacted, so that such section when thus repealed, amended, and re-enacted shall read as follows:

Section Twelve (12). Every guardian or committee, who has or is receiving funds from the Veterans' Administration, shall, before investing such funds of the estate, obtain the prior order of the court and with such prior order shall invest the funds of the estate in such manner and in such securities or annuities, in which the guardian or committee has no interest, as allowed by law; *except that where said guardian or committee invests such funds in bonds or other interest bearing obligations of the United States Government or securities*



*authorized by Acts of Congress no prior order of the court is needed or is necessary.*

All laws or parts of laws in conflict herewith are hereby repealed.

Whereas, any delay in the privilege of so investing the funds of a veteran may result in the loss of an income to such veteran, an emergency is hereby declared to exist, and this Act shall take effect upon its passage and approval by the Governor.

Senator Trager moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill, in accordance with the provision of the Constitution, were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	Paul M. Basham	Leer Buckley
Aubrey Barbour	Ollie J. Bowen	Dr. D. H. Bush

Waller A. Crockett	Stanley B. Mayer	Ervine Turner
W. C. Farmer	Strother Melton	Thomas O. Turner
Lee Gibson	E. C. Moore	E. T. Wesley
Ralph Gilbert	J. Lee Moore	Otis White
J. Joseph Hettinger	Ray B. Moss	O. C. Whitfield
H. Watt Hillman	James C. Rogers	J. E. Wise
Wm. H. Jones, Jr.	Ira W. See	J. M. Wolfinbarger
Leo King	Paul L. Sidebottom	
J. W. McDonald	J. E. Trager	—31

Resolved that the title thereof be as aforesaid.

Senator Trager moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Senator Gilbert then moved that the Senate do now recess, until two o'clock, P. M.

Said motion was agreed to.

And then the Senate recessed.

The appointed hour having arrived, the President Pro Tem of the Senate resumed the Chair and called the Senate to order.

Senator Gilbert moved that the rules be suspended for the purpose of allowing committees to report.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Bush, Chairman of the Committee on Municipalities, to which same had been previously referred, reported bills of the following titles, viz.:

S. B. 19. An Act to authorize the establishment of sanitary districts in counties containing cities of the first, second and third classes and the powers of the county and state board of health with reference thereto and providing that such districts may include areas of other counties near to or adjoining such counties containing first, second and third class cities; providing for the powers of the district; creating the office of commissioner of sanitary districts and providing for his powers and duties; providing procedure and conditions under which the district and its boundaries may be established and certificate of incorporation issued, and defining certain terms used in the act.

Providing for the appointment, powers and duties of the governing body, officers and employees of such districts; providing for the plans of the improvements of the district and the supervision of the state board of health with reference thereto and the approval of the qualifications of the engineer; authorizing the entry upon lands for the purpose of making surveys and obtaining data for preliminary purposes of the district; authorizing the district to acquire and own lands and personal property and interests and uses therein in this state and elsewhere including existing sanitary works; authorizing district to condemn lands and granting dominant right of eminent domain over others authorized to condemn land for public purposes including counties, cities, school districts, municipal corporations common carriers, public utilities, subdivisions and arms of the government of the Commonwealth but not restricting to those just named; authorizing governing body of district to fix rates and rentals and to contract and make rules and regulations for the management and government of the district and providing supervision of such rules and regulations by the state board of health; restricting and prohibiting installation of other sanitary works within the district and enforcing the use of the district's works; affording injunctive relief; authorizing district to contract with individuals and others and with the governments of the

United States and of other adjoining states and their political subdivisions, arms and branches; providing for financing of the organization, construction, maintenance and operation of the district and all improvements and property belonging to the district; authorizing the levy of a tax, the issuance of original bonds, refunding and deficiency bonds, the borrowing of money, collection of revenues, securities for bonds and funds borrowed; the creation of statutory mortgage liens to secure bonds and the enforcement of such liens, and the management and investment of all funds belonging to the district; authorizing counties to cooperate and assist in the organization of districts and to loan or expend funds therefor; exempting the bonds issued by the district from taxation; providing for the rights of creditors of such district and enforcement of their claims; requiring all users of the services of the district to pay therefor including municipalities, school districts and all public and private organizations and political subdivisions; providing for the extension, addition or improvement of the works of the district and the issuance of bonds therefor and providing the security for such bonds; providing penalties for interference and violation of this act and the rules and regulations promulgated thereunder, and requiring liberal construction of this act.

S. B. 26. An Act to repeal Chapter 115 of the Acts of the General Assembly at its 1916 Session, and Chapter 55 of the Acts of the General Assembly at its 1920 Session, and enacting in lieu thereof, an act to provide a stenographer in the County Attorney's Office in Counties containing a city of the first class, prescribing the method of appointment and removal, salary and method of payment of said salary.

With the expression of opinion that said bills should pass.

Whereupon, said bills were read at length for the first time and

Ordered placed in the Calendar.

Senator T. O. Turner, Chairman of the Committee on Kentucky Statutes No. 1, to which same had been previously referred, reported a bill entitled, viz.:

S. B. 117. An Act prohibiting electioneering, soliciting of votes, posting or distribution of handbills, circulars, placards or banners of a political nature and candidate cards on election day, prohibiting the employment of persons to perform such services.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator Ervino Turner, Chairman of the Committee on Roads and Highways, to which same had been previously referred, reported a bill entitled, viz.:

H. B. 96. An Act relating to roads and highways.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator Gibson, Chairman of the Committee on Banks & Trust Companies, to which same had been previously referred, reported bills of the following titles, viz.:

S. B. 104. An Act to fix the minimum amount of capital of any bank, trust company, combined bank and trust com-



pany, and trust, banking and title insurance companies, hereafter organized under the laws of this State, and to clarify any statutory inconsistencies relating thereto; and to repeal and re-enact, as amended, Kentucky Statutes, Carroll's Edition 1936, Section 577, and Section 580, relating to banks Section 603 relating to trust companies Section 612a relating to combined banks and trust companies, and Section 883c-1 relating to trust, banking and title insurance companies; and to repeal, so far as inconsistent herewith, Section 598b (2) relating to the required capital of State and National banks in this State acting as fiduciaries.

S. B. 103. An Act to repeal and re-enact, as amended, Section 165a-20 Kentucky Statutes, Carroll's Edition 1936, relating to the powers of the Director of the Division of Banking in passing upon applications for the approval of articles of incorporation of any proposed bank, trust company, combined bank and trust company, or any trust, banking and title insurance company, in regard to the necessity and convenience of such institutions, and amending said section so as to provide for the investigation of certain additional phases of such proposed institutions, and for the refusal of articles of incorporation of such institutions by the Director of the Division of Banking, and to require each director thereof to own in his own right shares of a par value of not less than \$500.00.

With the expression of opinion that said bills should pass.

Whereupon, said bills were read at length for the first time and

Ordered placed in the Calendar.

Senator Jones, Chairman of the Committee on Printing,

to which same had been previously referred, reported a bill entitled, viz.:

S. B. 102. An Act to repeal, amend and re-enact Sections 165a-12, 593 and 594 of Carroll's Kentucky Statutes, 1936 Edition, relating to the publication of statement of financial condition of bank, who shall sign statement, and penalty for failure to make or publish report.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator T. O. Turner, Chairman of the Committee on Kentucky Statutes No. 1, to which same had been previously referred, reported a bill entitled, viz.:

S. B. 92. An Act relating to libraries, creating a board for the certification of librarians and defining powers, and prescribing penalties.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator McDonald, Chairman of the Committee on Courts & Legal Procedure, to which same had been previously referred, reported a bill entitled, viz.:

S. B. 55. An Act to amend and re-enact Section 244,

Kentucky Criminal Code of Practice, relating to the keeping together and separation of jurors.

With committee amendment thereto.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator McDonald, Chairman of the Committee on Courts and Legal Procedure, to which same had been previously referred, further reported a bill entitled, viz.:

S. B. 51. An Act to amend and re-enact Section 237 of Carroll's Criminal Code of Practice, Baldwin's 1932 Edition, relating to separate trials in felony cases.

With the expression of opinion that said bill should not pass.

No motions having been made to advance said bill to a reading, the report of the committee to the contrary notwithstanding, and no further action having been taken by the Senate, said bill was rejected.

The Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 46. An Act creating the Kentucky State Fair Board; providing for its membership, their compensation and expenses, and prescribing its powers and duties; providing for liens on property of exhibitors and concessionaires to secure indebtedness due from them to said Board, and for the enforcement of such liens.

Senator Blake moved that a bill entitled, viz.:

H. B. 102. An Act creating the Kentucky State Fair Board; providing for its membership, their compensation and expenses, and prescribing its powers and duties; providing for liens on property of exhibitors and concessionaires to secure indebtedness due from them to said Board, and for the enforcement of such liens.

Be substituted in the Orders of the Day for said bill.

Said motion was agreed to.

Thereupon, the Senate took up for consideration from the Orders of the Day a bill entitled, viz.:

H. B. 102. (For title see S. J. of today, ante.)

Said last named bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky*

§ 1. There is hereby created the Kentucky State Fair Board. Said Board shall be a body corporate, and shall have power to sue and be sued, to contract and be contracted with, and possess all the immunities, rights, privileges and franchises usually attaching to corporate bodies. The Kentucky State Fair Board is hereby attached to and made a part of the Department of Agriculture, Labor and Statistics.

§ 2. The Kentucky State Fair Board shall be composed of the members of the State Board of Agriculture.

§ 3. The members of the Kentucky State Fair Board shall be allowed their necessary traveling and hotel expenses, and, with the exception of the Commissioner of Agriculture, Labor and Statistics, who receives an annual salary from the State, shall be allowed \$10.00 per day for attending the meetings of the Board, which shall not exceed twenty-five (25) in

number in any one year, and for services rendered in carrying on the State Fair.

§ 4. The Kentucky State Fair Board shall elect from its membership a President and a Vice-President. It shall have authority to employ such employees and agents as it shall deem necessary for the conduct of its affairs and those of the State Fair. The Board shall have authority to fix the duties and the compensation of such employees and agents, the compensation of any such employees and agents in no event to exceed the sum of \$3,600.00 per year. It shall have the authority to require any such employees or agents to give bond for the faithful performance of his duties, and the Board may pay the premium on such bond.

§ 5. In addition to the powers hereinbefore vested in it, the Kentucky State Fair Board shall have the following powers:

(a) It shall have the custody and control of the State Fair Grounds, including the buildings and equipment thereon, with power to erect and repair buildings on said grounds, and make any and all necessary or proper improvements thereon.

(b) It shall have power and it shall be its duty to hold an annual Fair on said grounds, for the exhibition of agriculture, mechanical, horticulture, dairy, forestry, poultry, live stock, mineral and all other industrial interests of the State.

(c) It shall have the power and it shall be its duty, to prepare premium lists, and establish rules of exhibition for such Fair.

(d) It shall have the power to take and hold property by deed, gift, devise or bequest, for Fair purposes.

(e) It shall have the power to delegate the management of the State Fair and/or the State Fair Grounds to any employee or agent, or it may delegate such management to an Executive Committee of the Board, and in carrying on such affair, it may employ such assistants as may be deemed necessary.

§ 6. The Kentucky State Fair Board shall require that



a complete record of all its meetings be kept. The said Board shall have power to arrange with the County Judge or with such municipal officer as has charge of the municipal police force of any County or City in which such State Fair may from time to time be held, for the proper policing of the State Fair Grounds, and shall have further power to arrange with the State of Kentucky for the policing of such State Fair Grounds by the State Police. In the event the Board is unable to arrange with said City, County or State authority for such police protection, then in that event it may appoint or may delegate to any agent or employee the power to appoint, subject to the approval of the Board, such number of special police as it, or he, may deem necessary for the proper policing of the State Fair Grounds, and such police officers are hereby vested with the powers and charged with the duties of peace officers. The Board shall also cause to be kept a correct account of its receipts and disbursements.

§ 7. The Kentucky State Fair Board shall not give to any person a free pass, ticket, or box, to or in said State Fair or any Horse Show held therein.

§ 8. No member of the Kentucky State Fair Board, or any official of any Department, shall be an exhibitor in competition for premium or prize money at any State Fair held while he is a member of the Board, or an official of any Department.

§ 9. The Kentucky State Fair Board shall have exclusive control of concessions, exhibitions, shows, entertainments and attractions at any place within the confines of the grounds of the Kentucky State Fair. It may delegate such control to any of its employees or agents herein provided for, or to an Executive Committee. The Kentucky State Fair Board shall have a prior lien upon the property of any concessionaire, exhibitor or person immediately upon coming or being brought on the grounds to secure existing indebtedness, as well as that which might afterwards arise, with power in any employee or agent of said Board designated by it, to sell the

same, the proceeds of sale to be applied to the satisfaction of the indebtedness, said sale to be after giving ten days' notice to the owner or agent of the owner, and in the event this cannot be done, by posting a notice in the office of the Board on the grounds, that the sale of said property is to be had, and the Kentucky State Fair Board, through its designated agent, shall have the right to bid and buy in the property offered for sale for the use and benefit of the Kentucky State Fair.

§ 10. All property of whatsoever nature and description, whether real, personal or mixed, and all claims and demands due to or from the State Board of Agriculture, and pertaining to the Kentucky State Fair, are hereby transferred to and vested in the Kentucky State Fair Board.

§ 11. The sum annually or otherwise appropriated by the General Assembly of the Commonwealth of Kentucky, to be used for premiums alone, shall be paid on or before the first day of September of each year, to said Kentucky State Fair Board, to be disbursed by said Board through any agent it shall appoint for said purpose, who shall execute bond to the State of Kentucky, to be approved by the Department of Finance in such sum as may be fixed by said Department, for the faithful disbursement of such money; provided, no money shall be paid out of said premium fund except upon checks which have been countersigned by an agent of the Commissioner of Finance, and for that purpose said Commissioner shall designate an agent who shall keep an office upon the Fair Grounds for the duration of each annual Fair for the purpose of carrying out the provisions of this section.

Said Kentucky State Fair Board shall, within ninety days after holding such annual State Fair, render to the Department of Finance of the State, an itemized statement showing the disbursements of such appropriation.

§ 12. Sections 37-14a, 4618b-1, 4618b-2, 4618b-3, 4618b-4, 4618b-5, 4618b-6, 4618b-7, 4618c-1, 4618c-2, 4618d-1, 4618d-2, 4618d-3, 4618d-4, 4618d-5, 4618e-1, 4618e-2, 4618e-3, 4618e-4, 4618e-5, 4618e-6, 4618f-1, 4618f-2, 4618g-1, 4618g-2, 4618h-1,

4618h-2, 4618h-3 and 4618h-4 of Carroll's Kentucky Statutes, 1936 Edition, and all Acts and parts of Acts in conflict herewith are hereby repealed.

§ 13. So much as may be necessary of the appropriation provided in the subsection (b-1) of section 14 of the Appropriation Act for 1938-1939 and provided in subsection (b-1) of section 14 of the Appropriation Act for 1939-1940, in Chapter I of the Acts of the General Assembly of 1938, for paying per diems to members of the Board of Agriculture, may be allotted by the Commissioner of Finance to a fund for the payment of per diems to members of the Kentucky State Fair Board.

§ 14. Inasmuch as the Kentucky State Fair is held annually in the month of September, and it is necessary for the holding of the Fair in 1938 that the reorganization herein provided for shall be made promptly effective, an emergency is hereby declared to exist, and this Act shall take effect from and after its passage and approval.

Senator Blake moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be read the third time.

Senator Blake moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third

reading at length of said bill being dispensed with, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	John M. Hall	Jos. P. Tackett
Paul M. Basham	J. Joseph Hettinger	J. E. Trager
H. Stanley Blake	H. Watt Hillman	Ervine Turner
Ollie J. Bowen	Leo King	Thomas O. Turner
Dr. D. H. Bush	Stanley B. Mayer	Otis White
Waller A. Crockett	Strother Melton	O. C. Whitfield
Edwin C. Dawson	E. C. Moore	B. M. Williams
Lee Gibson	J. Lee Moore	
Ralph Gilbert	James C. Rogers	

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Those who voted in the negative were—

Aubrey Barbour	J. W. McDonald	J. E. Wise
Wm. H. Jones, Jr.	Paul L. Sidebottom	J. M. Wolfenbarger

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Resolved that the title thereof be as aforesaid.

Senator Blake moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Senator Gilbert moved that the rules be suspended and the Clerk of the Senate be directed to report the action of the Senate to the House.

Said motion was agreed to by a majority of the members elected.

Senator Tackett moved that the rules be suspended for the purpose of introducing bills.

Said motion was agreed to by a majority of the members elected.

Whereupon, bills of the following titles were introduced, ordered printed and referred, as follows, viz.:

By Senator Tackett.

S. B. 159. An Act authorizing the issuance of life certificates to teachers who have had twenty years or more experience teaching in the common schools of Kentucky and fixing the fees therefor.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Upon presentation to the Department of Education of the Commonwealth of Kentucky by any person who is a citizen and resident of the Commonwealth of Kentucky of proof of his, or her having been actively engaged as a teacher in the common schools of the Commonwealth of Kentucky for twenty years or more accompanied with a fee of \$5.00, the Department of Education shall issue to such person a certificate authorizing such person to teach in the common schools of this Commonwealth during his, or her natural life.

All laws, or parts of laws in conflict herewith are hereby repealed.

To Committee on Education.

By Senator Blake.

S. B. 160. An Act repealing, amending and re-enacting



Section 762a-18, Kentucky Statutes, Baldwin's 1936 Revision, providing that no insurance company nor agent thereof shall make any contract of insurance except as set out in the policy of insurance; and providing that each and every policy of insurance shall state the appraised value of the property insured and the amount of money which the insurer will pay to the insured in the event of total loss by fire of the insured property; and providing that no premium shall be charged on any value in excess of the said amount which said insurer contracts to pay in the event of total loss by fire.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 762a-18, Kentucky Statutes, Baldwin's 1936 Revision, be and the same is hereby repealed, amended, and re-enacted so that when amended and re-enacted same shall read as follows:

No insurance Company nor any agent thereof shall make any contract or agreement with reference to any insurance other than is plainly expressed in the policy.

Each and every insurance policy issued by any insurance Company or its agent shall state the appraised value of the property insured, and the amount which the insurer will pay to the insured in the event of total loss by fire. No premium shall be charged by any insurance company on any value in excess of the said amount which said insurance company contracts to pay in the event of total loss by fire.

To Committee on Judiciary.

By Senator See.

S. B. 161. An Act repealing, amending and re-enacting Sections 1893d-9, 1893d-10 and 1893d-11, Carroll's Kentucky

Statutes, 1936 Revision, pertaining to the size and prohibiting the sale of jack salmon or wall eyed pike.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That section 1893d-9, 1893d-10 and 1893d-11 of the Carroll's Kentucky Statutes, be repealed, amended and re-enacted so that when so amended will read as follows:

1893d-9. Number and size of fish which may be taken.—No person shall take, or catch, or have in his possession more than ten (10) black bass, nor more than ten (10) trout, nor more than fifteen (15) rock bass or “goggle eye” nor more than fifteen (15) crappie, nor more than fifteen (15) jack salmon or wall eyed pike in any one day, nor take, nor have in his possession any black bass, nor trout under eleven (11) inches in length, nor any crappie under eight (8) inches in length; provided, however, that any person having fished two days in succession may have in possession a total not to exceed twenty (20) black bass, or trout, thirty (30) rock bass or “goggle eye,” or thirty (30) crappie, or thirty (30) jack salmon or wall eyed pike.

1893d-10. Seining for minnows permitted.—It shall be lawful for any person or persons to take from the public waters of this State minnows to be used for bait for fishing with pole and line, hand line, set lines or trot lines with minnow seine. Said seine shall not be more than ten feet in length, four feet in width or height with mesh not larger than a quarter of an inch. Minnows, within the meaning of this act, shall be all fish under six inches in length, except bass, rock bass, or goggle eye, trout, crappie, jack salmon or wall eyed pike.

1893d-11. Sale of certain fish prohibited.—It shall be unlawful to sell or offer for sale in this state any small mouth black bass, large mouth black bass, crappie or jack salmon or wall eyed pike.

To Committee on Fish & Game.

By Senator See.

S. B. 162. An Act to amend and re-enact Section 4076g Carroll's Kentucky Statutes, 1936 Edition, relating to titles in whom vested.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 4076g, Carroll's Kentucky Statutes, 1936 Edition, be and the same is hereby amended and re-enacted so that when so amended and re-enacted, it shall read as follows:

All title and claim proceeded against under this article and forfeited to, and vested in, the Commonwealth and not purchased back by the owner or claimant thereof, as authorized in 4076e hereof, whether such forfeiture be for past delinquencies or for future delinquencies as authorized under 4076k hereof, shall be, and is hereby transferred to, and vested in, any person for so much thereof as such person, or those under whom he claims, has had the actual adverse possession for five years next preceding the judgment of forfeiture, under claim, or color of title, derived from any source whatsoever, and who, or those under whom he claims, shall have paid taxes thereupon for the five years in which such possession may have been or may be held; and in those in privity with such person, his heirs, representatives or assigns, as to the mineral or other interests or rights in or appurtenant to such land. *Any owner of the surface rights in any lands in Kentucky, who lists the minerals for taxation and pays taxes thereon for any year in which the owner or claimant of the mineral rights or any interest in mineral rights, fails to list the same or pay taxes thereon shall be for such year deemed to be in the adverse possession of such min-*

*eral rights and upon such listing of the minerals for taxation and payment of taxes thereon for five successive years during which the owner or claimant of the mineral or any interest in minerals fails to list the same for taxes and pays taxes thereon the same shall be forfeited to and become the absolute property of such surface owner and any such surface owner may quiet his title to such minerals by action to quiet title as in other cases, and any property or rights which would formerly have been perfected to the Commonwealth shall inure to the benefit of any surface owner listing minerals for taxation and paying taxes thereon,*

To Committee on Judiciary.

The Senate then took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 47. An Act to amend and re-enact Section 514 of the Civil Code of Practice, relating to the reversal of judgments by the Court of Appeals.

With committee amendment thereto.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 514 of Carroll's Kentucky Civil Code of Practice, 1932 Edition, be and the same is hereby amended and re-enacted, so that as so amended and re-enacted the same shall be as follows:

Section 514. Court of Appeals may, for errors in record. A judgment may be reversed or modified by the Court of Appeals for errors appearing in the record. If error exists only in respect of one or more of several issues, such as in the assessment of damages, and the trial was otherwise free from substantial error, the Court of Appeals may limit its reversal

of the judgment and may confine the new trial to those issues in respect of which the error was made, if the court be of opinion that such restriction is compatible with justice.

Said amendment to said bill as proposed by the committee reads as follows, viz.:

Strike from line 7 the following language: "Such as in the assessment of damages" and the comma following the word "damages"

Said amendment to said bill as proposed by the committee was agreed to.

Senator Tackett moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill having been dispensed with, and the same having been engrossed, said bill was read the third time by its title only and passed.

The yeas and nays being taken on the passage of said



bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	Leo King	J. E. Trager
Paul M. Basham	J. W. McDonald	Ervine Turner
H. Stanley Blake	Strother Melton	E. T. Wesley
Ollie J. Bowen	E. C. Moore	Otis White
Dr. D. H. Bush	J. Lee Moore	O. C. Whitfield
Lee Gibson	Ray B. Moss	B. M. Williams
Ralph Gilbert	Ira W. See	
John M. Hall	Jos. P. Tackett	—22

Those who voted in the negative were—

Aubrey Barbour	J. Joseph Hettinger	Thomas O. Turner
Leer Buckley	James C. Rogers	J. E. Wise
Waller A. Crockett	Paul L. Sidebottom	J. M. Wolfenbarger
		—9

Resolved that the title thereof be as aforesaid.

Senator Tackett moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

The Senate then took up for consideration from the Orders of the Day a bill entitled, viz.:

S. B. 38. An Act to amend and re-enact Section 913-1, Kentucky Statutes, 1936 Edition.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 913-1, Carroll's Kentucky Statutes, 1936

Edition be, and same is hereby amended so that as amended the same shall read as follows:

That the various counties of the Commonwealth of Kentucky be, and they are authorized to enter into contracts with any city in the Commonwealth owning and operating its own municipal or city hospital for hospitalization of poor and indigent persons, residents of the counties so contracting, who may require hospitalization and are financially unable to pay for same, and to pay for same out of the county funds: Provided however, that in any county of the Commonwealth wherein there is no city owned hospital, the Fiscal Court of such county, or counties, are authorized to enter into such contracts with any privately owned hospital of such county, OR SOME ADJOINING COUNTY and pay for same as herein provided.

Senator Jones offered the following amendment to said bill, viz.:

Line 14 to strike therefrom the word "ADJOINING" and substitute therefor the word "OTHER".

Said amendment to said bill was then agreed to.

Senator Rogers moved the Previous Question.

Whereupon, the President Pro Tem of the Senate announced, "Shall the Main Question be now put?"

Which was decided in the affirmative.

Ordered that said bill be engrossed and read the third time.

Senator Gilbert moved that the Constitutional provision as to the third reading at length of said bill be dispensed with and same be read the third time by its title only.

Said motion was agreed to by a majority of the members elected.

Whereupon, the Constitutional provision as to the third reading at length of said bill having been dispensed with, and the same being engrossed, said bill was read for the third time by its title only and passed.

The yeas and nays being taken on the passage of said bill in accordance with the provision of the Constitution were as follows, viz.:

Those who voted in the affirmative were—

Wm. R. Attkisson	Leo King	J. E. Trager
H. Stanley Blake	J. W. McDonald	Ervine Turner
Leer Buckley	Strother Melton	Thomas O. Turner
Dr. D. H. Bush	E. C. Moore	E. T. Wesley
Waller A. Crockett	J. Lee Moore	Otis White
Lee Gibson	Ray B. Moss	O. C. Whitfield
Ralph Gilbert	James C. Rogers	B. M. Williams
J. Joseph Hettinger	Paul L. Sidebottom	J. E. Wise
Wm. H. Jones, Jr.	Jos. P. Tackett	J. M. Wolfnbarger

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Resolved that the title thereof be as aforesaid.

Senator Tackett moved that the vote by which said bill was passed be reconsidered and that said motion lie on the table.

Said last named motion was agreed to.

Senator Basham moved that the rules be suspended for the purpose of allowing committees to report.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Barbour, Chairman of the Committee on Constitutional Amendments, to which same had been previously referred, reported a bill of the following title, viz.:

S. B. 37. An Act to amend Section 100 of the Constitution of the Commonwealth of Kentucky so as to permit women to hold public offices.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator Rogers, Chairman of the Committee on Education, to which same had been previously referred, reported a bill entitled, viz.:

S. B. 118. An Act amending Chapter 42 of the Acts of the General Assembly of 1936, being Section 4399-3 Carroll's Kentucky Statutes, 1936 Edition, relating to independent school districts.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator T. O. Turner, Chairman of the Committee on Kentucky Statutes No. 1, to which same had been previously referred, reported a bill of the following title, viz.:

S. B. 89. An Act relating to the trapping of animals.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator McDonald, Chairman of the Committee on Courts & Legal Procedure, to which same had been previously referred, reported a bill entitled, viz.:

S. B. 42. An Act relating to the joint control with any surety of money or securities or other assets by any administrator, executor, committee, guardian, trustee or any other fiduciary for whom a bond, undertaking, or other obligation is required.

With the expression of opinion that same should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

Senator Basham, Chairman of the Committee on Criminal Law, to which same had been previously referred, reported bills of the following titles, viz.:

S. B. 4. An Act to amend Section 1142a, Kentucky Statutes, relating to credit for imprisonment during inability to secure bail.

With committee amendment thereto.

S. B. 52. An Act amending and re-enacting Section 1649b-3 of Carroll's Kentucky Statutes, Baldwin's Revision,



relating to the inadmissibility of confessions obtained by sweating.

S. B. 48. An Act to amend Section 1 of Chapter 42 of the Acts of the General Assembly of 1934 so as to provide the period of probation of defendants in certain criminal cases.

S. B. 50. An Act to repeal and re-enact Section 126 of the Criminal Code of Practice, Baldwin's Revision of 1932, relating to the manner of charging an offense in an indictment.

S. B. 54. An Act to amend Section 127 of the Criminal Code of Practice, Baldwin's Revision of 1932, so that the offenses of forgery and uttering a forged instrument may be charged in one indictment.

With the expression of opinion that each of said bills should pass.

Whereupon, said bills were each and severally read at length for the first time and

Ordered placed in the Calendar.

Senator Basham, Chairman of the Committee on Criminal Law, to which same had been previously referred, further reported bills of the following titles, viz.:

H. B. 5. An Act relating to the embezzlement, conversion, misappropriation and/or misapplication of the sinking fund in cities of the second class in the Commonwealth of Kentucky; providing penalties for the non-observance thereof and fixing upon city officers and employees civil liability therefor; and providing for the recovery of any and all amounts so embezzled, converted, misappropriated and/or misapplied.

S. B. 5. An Act to amend Section 1309, Carroll's Kentucky Statutes, 1936 Edition, providing a penalty for carrying concealed deadly weapons or selling to minors, and providing for confiscating of weapons.

With the expression of opinion that said last named bills should not pass.

No motion having been made to advance said bills to a reading, the report of the committee to the contrary notwithstanding, and no further action having been taken by the Senate, the said last named bills were rejected.

Senator Williams moved that the rules be suspended for the purpose of introducing a resolution.

Said motion was agreed to by a majority of the members elected.

Whereupon, Senator Williams offered the following resolution which is entitled, viz.:

S. Res. 43. A resolution authorizing the State Treasurer to pay \$25,000.00 to Anna Walker Burns for services rendered to the State of Kentucky by locating, founding and establishing the Kentucky Mountain Laurel Festival and Clear Creek Springs near Pineville, Kentucky.

Said resolution is as follows, viz.:

WHEREAS, on the ——— day of ———, 1930, the Kentucky State Legislature passed an Act giving Anna Walker Burns full credit for establishing the Kentucky Mountain Laurel Festival, and,

WHEREAS, in the year 1936, the records show that more than ten thousand (10,000) visitors visited this park, and in the year 1937 more than ten thousand (10,000) visitors visited this park, and,

WHEREAS, in the year 1936, the records show that five thousand (5,000) automobiles paid twenty-five (25) cents for parking in this park, and,

WHEREAS, more than ten thousand (10,000) people for the year 1936 paid twenty-five (25) cents each for admission into the park, and,

WHEREAS, there has been seven (7) annual festivals held in the Kentucky Mountain Laurel Park, and,

WHEREAS, the Kentucky Legislature has made this festival a permanent affair, and,

WHEREAS, Mrs. Anna Walker Burns has spent a great deal of time and money organizing this Kentucky Mountain Laurel Festival, and,

WHEREAS, at the time that the said Anna Walker Burns was organizing this park, she expected to become the beneficiary of the fees collected from admissions to this park, and,

WHEREAS, the Kentucky Mountain Laurel Festival has been and is now being favorably commented on, and advertised in many of the great dailies of the United States, such as the Chicago dailies, the Washington dailies and other great daily papers, and,

WHEREAS, the Mountain Laurel Festival has become a very valuable asset to the State of Kentucky by bringing into the State annually many thousands of tourists which advertise the State, and,

WHEREAS, Mrs. Anna Walker Burns has never, at any time to this date, received any remuneration for her services, now in order that Mrs. Anna Walker Burns shall be remunerated for her valuable services to the State of Kentucky:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That Mrs. Anna Walker Burns in her own name be, and is hereby, granted the sum of twenty-five thousand dollars

(\$25,000.00) to be paid by the State Auditor of Public Accounts by warrants drawn on the State Treasurer and paid out of the general funds.

Ordered printed and referred to the Committee on Kentucky Statutes No. 1.

Senator Bush moved that the Senate do now adjourn to meet again at eleven o'clock, A. M. Wednesday, February 2nd, 1938, and that it adjourn in memory of former Senator Charles Oldham, of whose death the Senate had just learned.

Said motion was agreed to.

And then the Senate adjourned.

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### WEDNESDAY, FEBRUARY 2ND, 1938

The Senate convened and was called to order by the Honorable Keen Johnson, Lieutenant Governor of the Commonwealth and President of the Senate.

The Senate was opened with prayer by the Reverend Walter Cropper, pastor of the Methodist Episcopal Church, South, Frankfort, Kentucky.

The roll of the Senate was called, and the following Senators answered to their names, viz.:

Wm. R. Attkisson	H. Watt Hillman	Paul L. Sidebottom
Aubrey Barbour	Wm. H. Jones, Jr.	Jos. P. Tackett
Paul M. Basham	Leo King	Ervine Turner
H. Stanley Blake	J. W. McDonald	Thomas O. Turner
Ollie J. Bowen	Stanley B. Mayer	E. T. Wesley
Dr. D. H. Bush	Strother Melton	Otis White
Waller A. Crockett	E. C. Moore	O. C. Whitfield
Edwin C. Dawson	J. Lee Moore	J. E. Wise
Lee Gibson	Ray B. Moss	J. M. Wolfenbarger
John M. Hall	James C. Rogers	
J. Joseph Hettinger	Ira W. See	

Senator Dawson moved that the reading of the Journal of the proceedings of Tuesday, February 1st, 1938, be dispensed with, and the same be approved.

Said motion was agreed to.

Senator E. C. Moore moved that the rules be suspended and the privilege of the floor be extended to Miss Zell Brock of Owen County.

Said motion was unanimously agreed to.

Senator See moved that the rules be suspended and the privilege of the floor be extended to Mr. Forest Preston of Paintsville, Kentucky.

Said motion was unanimously agreed to,

Senator Melton moved that the rules be suspended and the privilege of the floor be extended to Mrs. V. A. Phillips and Mrs. R. B. Wright.

Said motion was unanimously agreed to.

Senator Hillman moved that the rules be suspended and the privilege of the floor be extended to Mr. Freeman S. Webb, Olive Hill, Kentucky.

Said motion was unanimously agreed to.

Senator Attkisson moved that the rules be suspended and the privilege of the floor be extended to Mr. and Mrs. Laurence Weatherby and Mr. and Mrs. George S. Weatherby of Louisville, Kentucky, Mr. Charles Epperson of Pikeville, Kentucky, Mr. John F. Dugan and Mr. Sherman Weatherby of Louisville, Kentucky.

Said motion was unanimously agreed to.



## INTRODUCTION OF BILLS

Bills and resolutions of the following titles were introduced, ordered printed and referred, as follows, viz.:

By Senator White.

S. B. 163. An Act, providing for the merger of any two or more contiguous school districts, defining the powers of the members of the boards of education of said districts and repealing and re-enacting Section 4, Article 5, Chapter 65 of the 1934 Regular Session, and declaring an emergency to exist.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 4, Article 5, Chapter 65 of the Acts of the 1934 Regular Session, which is Section 4399-4 Carroll's Kentucky Statutes, 1936 Edition, be, and the same is hereby repealed and re-enacted so that when re-enacted same shall read as follows, to-wit:

Boards of education of any two or more contiguous school districts may by their concurrent action merge their districts into one school district. In case of a merger, the members of the boards of education of districts thus consolidated may serve out the terms for which they were elected and qualified, *provided, however, that in districts heretofore formed, or which may be formed hereafter, by a merger of an independent district with a county district, the power to elect and appoint all officers and appointees, now or hereafter vested in the county board, shall be exercised solely and exclusively by those members who are the regularly elected members of the county board of education, and those who were members of the board of education of the independent district shall not participate therein.*

In case of any merger of school districts, the resulting

district shall take over all the assets and legal liabilities of the districts joining in the merger; provided that tax levies authorized for the payment of interest and the retirement of bonds or the provision for sinking funds for such purposes shall continue to be levied and collected over the same area by or for the new board in accordance with the laws under which the levies were originally made until all bonded obligations of the old district or districts shall have been retired.

The present uncertainty with respect to the duties and powers of the said boards so merging constitute an emergency, and this Act shall become a law and be effective on its passage and approval by the Governor.

To Committee on Education.

By Senator Bowen.

S. B. 164. An Act to prevent the spreading of Forest Fires within this Commonwealth, and to enact safeguards against destruction of forests from such fires; including the performance of certain duties and requirements with reference to the origin and spreading of fires and prohibiting certain acts contributing to the origin and spreading of like fires, and prescribing penalties and punishment for any violation thereof.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. It shall be the duty of every person, firm or corporation, or company operating a steam railroad within this Commonwealth using wood, coke, or coal as fuel on such part of its road as passes through forest or woodland, or lands subject to fires from any cause, to cut and remove from its right of way along such lands, at least twice a year, all grass, brush, and other inflammable materials, for a distance of at least seventy-five feet from the outer rails, provided the right

of way extends seventy-five feet, and to provide each locomotive with a spark arrestor so constructed as to give the best practical protection against the escape of fire and sparks from the smoke stacks thereof, and with a suitable ash pan to prevent the escape of live ashes which spark arrestor and ash pan shall have been approved by the Division of Forestry, Department of Conservation of this Commonwealth. Any individual, firm, company, corporation, or employee thereof violating any provision of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than twenty nor more than two hundred dollars.

§ 2. Slash and debris accumulating from the construction and maintenance of railroads, highways, transmission lines, telephone or telegraph lines in or adjacent to forested areas, including farm wood lots, shall be disposed of in such a manner that inflammable material shall not be left on the ground. Whenever slash and debris or inflammable material are permitted to accumulate as the result of the construction and maintenance of railroads, highways, transmission lines, or telephone lines, contrary to the terms of this section, the person or persons responsible therefor or his employees, whether individual, firm or corporation, shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten nor more than fifty dollars.

§ 3. Any individual, firm or corporation responsible for the operation of a saw mill, stave mill, heading mill, or any other mill in, through, or near State or National Forests or State or National Parks or any other public land, shall clean the premises by removing all inflammable material for at least a distance of fifty yards in all directions from any fires maintained in or about, or in connection with the operation of said mill and for a distance of two hundred feet in all directions from any saw dust pile, slab pile, or other inflammable material which accumulates from the operation of said mill which is liable to take fire from any sparks emitted from said fires. When any such person, firm, or corporation re-

moves said mill, or ceases to operate it for a period of ten consecutive days, he shall totally extinguish any fires which may be burning in any saw dust pile or other debris which may have accumulated from the operation of said mill, provided it is practical to do so, but if not, then he shall execute bond to the Commonwealth of Kentucky with surety to be approved by the Director, Division of Forestry, that he will satisfy and perform any judgment that might be recovered against him for injury and damage as a result of the spread of the fire to other premises; and any person damaged may have a cause of action on such bond in his name for any damage sustained. Any person, firm or corporation violating any of the provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars nor more than fifty dollars for each offense. Each day or fraction thereof on which any such mill shall be operated in violation of the provisions of this section and each day or fraction thereof on which fire is allowed to burn in any sawdust pile, slab pile, or other inflammable debris in violation of the provisions of this section shall be deemed a separate offense.

§ 4. It shall be the duty of all individuals, firms, or corporations, responsible, for the operation in or near any forest, brush-land, or woodland of a coal mine or any other mine to clean the premises for at least a distance of two hundred feet in all directions from any dust pile, slack pile, or any other inflammable material which accumulated from the operation of said mine which is liable to take fire from any sparks or which is purposely set on fire by the owners and operators thereof for the destruction of the same. When any such person, firm or corporation shall cease to operate said mine for a period of ten consecutive days, he shall totally extinguish any fire which may be burning in any dust pile, slack pile, or other inflammable material which may have accumulated from the operation of said mine, provided it is practical to do so, but if not, then he shall execute bond to the Commonwealth

of Kentucky with surety to be approved by the Director, Division of Forestry, that he will satisfy and perform any judgment that might be recovered against him for injury and damage as a result of the spread of the fire to other premises; and any person damaged may have a cause of action on such bond in his name for any damage sustained. Any person, firm, or corporation, violating any provisions of this section shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten nor more than fifty dollars for each offense. Each day on which any such mine shall be operated in violation of the provisions of this section and each day on which fire is allowed to burn in any dust pile, slack pile, or other inflammable material in violation of the provisions of this section shall be deemed a separate offense.

§ 5. It shall be the duty of all individuals, firms or corporations, owning or operating a saw mill, stave mill, heading mill or any other mill, diukey, threshing machine or other engines and boilers, operated in, through or near forest, woodland or brush-land, to provide appliances approved by the Division of Forestry, Department of Conservation of this Commonwealth, to prevent the escape of fire and sparks from the smoke stacks thereof and devices to prevent the escape of fire from ash pans and fire boxes. Failure to comply with these requirements shall be a misdemeanor, punishable upon conviction by a fine of not less than ten dollars nor more than one hundred dollars for each offense. Each day on which any such mill, machine, engine or boiler shall be operated in violation of the provisions of this section shall be deemed a separate offense.

§ 6. It shall be the duty of anyone who, by himself or by his servant, agent or guide, shall build a camp, cooking or other fire, or use an abandoned camp, cooking or other fire in a field, public or private road, or adjacent to or in any woodland or forest land within this Commonwealth, before leaving such fire to totally extinguish the same, and if he should fail to do so he shall be guilty of a misdemeanor and upon



conviction be fined not less than ten nor more than twenty-five dollars.

§ 7. Any person who drops or throws from any vehicle while the same is upon a public highway or private way in or near any forest land or woodland whether they be publicly or privately owned, or who drops, throws, disposes or otherwise places in, upon or near any forest land or woodland any lighted match, torch, firebrand, cigarette, cigar, live ashes or other flaming or glowing substance or any other substance liable to cause a fire shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten nor more than twenty-five dollars.

§ 8. Any person who carelessly or negligently sets on fire, or in any manner causes to be set on fire, any forest or woodland, brush land, grain stubble, grass, leaves, slash, or other combustible material being or growing on lands not his own or in his possession or control; or anyone who for any purpose whatsoever sets a fire or causes a fire to be set on his own land or lands in his possession or control, and negligently or carelessly allows said fire to escape from his control, whereby the land, property or growing timber of another is damaged shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars nor more than five hundred dollars, or imprisoned in the county jail not less than ten days nor more than six months, or both.

§ 9. Any person who shall willfully or maliciously, in person or by agent, directly or indirectly, set fire to, or cause to be set on fire any grass, leaves, under-brush, slash, or standing timber, being or growing upon the lands of another, or who willfully or maliciously sets fire to or assists another to set fire to any forest lands or woodland within this Commonwealth, shall be guilty of a felony and upon conviction be imprisoned not less than one year nor more than three years.

§ 10. If any section of this act should be declared by the courts as invalid, then it is hereby declared to be the in-

tention of the Legislature that the remaining sections shall not be affected. But that on the contrary the statute would have been enacted without the invalid section.

§ 11. All laws or parts of laws in conflict herewith are hereby repealed.

To Committee on Forestry & State Parks.

By Senator Hillman.

S. B. 165. An Act to provide for the subrogation of the Federal Deposit Insurance Corporation to the rights, against an insured closed institution, of all depositors, whose deposits have been paid, or for the payment of which funds have been made available; and providing for the repeal of all laws or parts of laws in conflict with this Act.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. Whenever any banking institution which is a member of, or whose deposits are insured by, the Federal Deposit Insurance Corporation shall have been closed and said Federal Deposit Insurance Corporation shall pay or make available for payment and insured deposit liabilities of such closed institution, said Corporation shall be and become subrogated by operation of law to all rights against such closed banking institution of each owner of a claim for deposit to the extent of such payment.

§ 2. All laws and parts of laws in conflict with this Act are hereby repealed to the extent of such conflict.

To Committee on Banks & Trust Companies.

By Senator J. Lee Moore.

S. B. 166. An Act providing educational opportunities for the Orphans of Soldiers, Sailors and Marines who were killed in action or died during the World War, and appropriating necessary money therefor from General Fund.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. The sum appropriated under the provisions of the act shall be used for the sole purpose of providing for matriculation fees, board and room rent and books and supplies for the use and benefit of the children not under sixteen and not over twenty-two years of age; and who have for twelve months had their domicile in the State of Kentucky, of those World War veterans who were killed in action or died from other causes in the World War, from April 6, 1917, to July 2, 1921, while serving in the army, navy or marines corps of the United States as a result of such service; which orphans are attending or may attend a state educational institution of a secondary or college grade. Said children shall be admitted to state institutions of secondary or college grade free of tuition.

§ 2. The amounts that may be or may become due at any educational or training institution, not in excess of the amount specified in section three thereof, shall be payable to such institution or school from the funds hereby created on vouchers approved by the State Board of Education. Said Board shall determine the eligibility of the children who make application for the benefits provided for in this act; satisfy itself of the attendance of such children at any such institution or school and of the accuracy and reasonableness of the charge or charges submitted to said Board by the authorities of any such institution, on account of the attendance thereat of any such children; provided no member of said Board or its Secretary shall receive any compensation for such services.

§ 3. The sum of one thousand four hundred dollars, or

so much thereof as may be necessary, is hereby appropriated from the general fund for each of the fiscal years ending June 30, 1939, and June 30, 1940, for carrying out the provisions of this act; provided not more than one hundred fifty dollars shall be paid under said provisions for any one child for any one school year. And provided further that in the event all of said fund is not consumed in providing scholarships for war orphans attending state owned institutions of learning, then and in the event the State Board of Education, in the exercise of a wise and sound discretion and on recommendation of the Commander of The American Legion, Department of Kentucky, may appropriate said balance, if any, to eligible war orphans who desire to enroll in vocational, technical or business schools; provided further that not more than six scholarships in such schools may be so awarded in any one year.

To Committee on Veterans' Legislation.

By Senator White.

S. Res. 44. Resolution authorizing Myrtle Cade, to sue the Commonwealth of Kentucky and the State Highway Commission or either.

Said resolution is as follows, viz.:

*Therefore, be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That the said Myrtle Cade be and she is hereby authorized and permitted to sue the Commonwealth of Kentucky or the State Highway Commission or both of them in the Franklin Circuit Court for such damages as she may have sustained, if any, by reason of injury to her head, body and limbs, caused by the negligence of the Commonwealth of Kentucky or the State Highway Commission their agents, servants or employees; and in the event any judgment is re-

covered by the said Cade in said suit, same shall be paid by the Treasurer of the Commonwealth of Kentucky on warrants from the auditor, to be paid out of the general fund and both the said Cade and the Commonwealth of Kentucky or the State Highway Commission shall have the right to appeal said case.

To Committee on Kentucky Statutes No. 1.

By Senator Tackett.

S. Res. 45. A Joint Resolution memorializing the Congress of the United States with reference to Federal Legislation affecting the lynchings and rape.

Said resolution is as follows, viz.:

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky, the Senate and House concurring, that the following Resolution be adopted, viz.:*

WHEREAS, there is pending before the Congress of the United States a so-called anti-lynching bill; and

WHEREAS, the crime of rape is more prevalent in the United States than the crime of lynching, both of which are hereby denounced; and

WHEREAS, it is the sense of the General Assembly that the anti-lynching bill pending before Congress is contrary to the provisions of the Constitution of the United States, is subversive of its principles, an unwarranted encroachment on the police powers of the State, and unjust in its subjection of State police officers to heavy penalties for failure to prevent lynchings which in most cases they are powerless to do;

NOW, THEREFORE BE IT RESOLVED: That the Senators of the United States representing Kentucky, the senior of whom has frequently voted against the measure now pending, be and they are hereby petitioned to vote and use their powerful influence against the adoption of the iniquitous



measure now pending. In the event, however, they subscribe to the opinion that the Constitution of the United States has been reposing in a museum, should be dusted off and made a living, breathing instrument, and that, therefore, Federal anti-lynching legislation is appropriate and legal, they are requested to offer and support an amendment to the pending bill likewise making the crime of rape one cognizable by the Federal Government, and providing indemnities for the victims of such crimes and their families at least equal in amount to those provided for the families of rapists or the victims of lynchings.

BE IT FURTHER RESOLVED; That copies of these resolutions be sent to Senator Alben W. Barkley and Senator M. M. Logan.

To Committee on Kentucky Statutes No. 1.

## REPORT OF COMMITTEES

Senator Gilbert, Chairman of the Committee on Revenue & Taxation, to which same had been previously referred, reported bills and a resolution of the following titles, viz.:

H. B. 6. An Act to amend Section 1 of Chapter 87 of an Act entitled: "An Act to authorize the incorporation of Chambers of Commerce, provide for their government and the collection of dues and to authorize appropriations thereto by City Councils and City Commissioners of cities of the third and fourth classes in the Commonwealth of Kentucky; and to include cities of the second class," said Act being enacted by the General Assembly and approved March 17, 1928, and being Sections 2741n-1, Kentucky Statutes, 1930 Carroll's Edition, making the provisions of said Act applicable to cities of the second class.

H. B. 86. An Act providing for a Capital Planning and Zoning Commission to establish and carry out an orderly and

comprehensive plan of development for the Capital of Kentucky and its environs.

II. Res. 33. A Concurrent Resolution providing for the creation of a Commission to plan for a proper observance of the One Hundred and Fiftieth Anniversary of the admission of Kentucky into the Union.

S. B. 119. An Act to amend an Act, entitled an Act to amend an Act, in relation to the Kentucky State Board of Dental Examiners, which Act became effective June 5th, 1932, and being Section 2636 with its 23 subsections of Carroll's Kentucky Statutes, and to regulate the practice of dentistry in the State of Kentucky.

With the expression of opinion that said bills and resolution should pass.

Whereupon, said bills and resolution were each and severally read at length for the first time and

Ordered placed in the Calendar.

Senator Whitfield, Chairman of the Committee on Agriculture & State Fair, to which same had been previously referred, reported bills of the following titles, viz.:

S. B. 106. An Act relating to the uniform law of warehouse receipts and warehousing, providing for the issual of warehouse receipts, the obligation and rights of warehousemen upon receipts, interpretation of the act, and providing penalties for violations thereof.

S. B. 14. An Act to amend and re-enact Section 1228a of Kentucky Statutes relative to trespassing on or injuring premises.

With the expression of opinion that said bills should pass.

Whereupon, said bills were each and severally read at length for the first time and

Ordered placed in the Calendar.

Senator Gibson, Chairman of the Committee on Banks & Trust Companies, to which same had been previously referred, reported a bill entitled, viz.:

H. B. 19. An Act to amend Chapter 94 of the 1936 Edition of Carroll's Kentucky Statutes, by repealing and re-enacting Sections 3767 and 3773 of said Carroll's Kentucky Statutes, being parts of said Chapter 94, relating to the business that may be conducted by limited partnerships and relating to the firm name of such partnerships; and prescribing the types of business that may be thenceforth conducted by limited partnerships and prescribing limitations in firm names to be adopted by such partnerships.

With the expression of opinion that said bill should pass.

Whereupon, said bill was read at length for the first time and

Ordered placed in the Calendar.

### HOUSE MESSAGE

A message was received from the House of Representatives announcing that they had passed bills and resolutions which originated in that body of the following titles, viz.:

H. Res. 49. Resolution providing that December 12th shall be known as Kentucky Day.

Said resolution is as follows, viz.:

WHEREAS, It is important that the people of a state should know their state, in its material wealth and natural resources, in the beauty of its scenery, but most of all in the history of its past, and of the men and women who have been part of its life:—

AND WHEREAS, December 12th, 1749, was the date on which Dr. Thomas Walker agreed to make the first survey of Kentucky, and though he did not begin work until some months later, this date is one to be remembered—

THEREFORE, Be it resolved by the General Assembly of the Commonwealth of Kentucky that December 12th shall be known as Kentucky Day—

This is not to be a legal holiday, but is to be observed annually, in the schools, by clubs and patriotic societies, and by Kentuckians generally, in order that the people of Kentucky may know the State better, and take a deeper interest in its welfare.

Referred to Committee on Education.

H. Res. 31. Joint Resolution for the benefit of Lieutenant O. J. Wilson, an officer in Company C, 149th Infantry United States Guard, who received serious and painful injuries in the service of the Commonwealth of Kentucky.

Said resolution is as follows, viz.:

Whereas, the Honorable A. B. Chandler, Governor of the Commonwealth of Kentucky, directed a certain force of the United States Guard under the command of Captain Ben C. Herndon to Harlan County, Kentucky, in November, 1937, and,

Whereas, Lieutenant O. J. Wilson, being one of the officers of said United States Guard and being in Harlan County pursuant to the order of the Honorable Governor, as

above set forth, was, on November 6, 1937, directed by his superior officers and detailed by them to ascertain whether any troops or men off duty were present in a certain road house, the Bell County Country Club, in Bell County, Kentucky, and,

Whereas, the said O. J. Wilson, in the performance of his duties and in obedience to the order of his superior officers, went to said road house for the purpose of carrying out the orders of his superior officers, and,

Whereas, the said Lieutenant O. J. Wilson was there attacked and brutally assaulted and injured, with a pistol or other sharp or heavy or dangerous weapon by a civilian, one Frank White, said attack being without provocation or fault on the part of the said Lieutenant O. J. Wilson, and,

Whereas, in consequence thereof the said Lieutenant Wilson did then and there suffer a severe head injury and scalp injury and a considerable loss of blood and a total severing of the temporal artery and a permanent damage to the optic nerve of the left eye, and the further possibility of more serious future results, to wit: cystic degeneration to the tissues of the brain, the ultimate result of which would be the loss of life of the said O. J. Wilson, and,

Whereas, all of said injuries were suffered by the said Lieutenant O. J. Wilson in the performance of his duties and in the obedient and faithful execution of the work assigned to him, and in the service of the Commonwealth of Kentucky, and,

Whereas, the said Lieutenant O. J. Wilson suffered an actual loss of \$137.50 in physicians' and surgeons' bills, medical supplies and hospitalization, and,

Whereas, the said O. J. Wilson, being dependent for a livelihood upon his position as a teacher in the public schools of the Commonwealth, was incapacitated from any and all work for a period slightly in excess of two weeks, representing a monetary loss, in addition to the losses above enumer-



ated, of \$60.00 in salary, the said O. J. Wilson being unable to perform any work of any character for said period, and,

Whereas, under present laws, the said Lieutenant O. J. Wilson has no means of being reimbursed, either for the injury suffered by him or for the expenditures necessarily lost thereby:

Now, Therefore,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That the Auditor of Public Accounts is directed to draw his warrant upon the State Treasurer for the sum of \$500.00 in favor of the said Lieutenant O. J. Wilson.

§ 2. That this Act shall take effect from and after its passage.

H. Res. 7. Joint Resolution for the payment to Rose Palmer and Louis N. Palmer of Covington, Kentucky, the sum of six hundred and thirty dollars with interest from June 5, 1936, being the balance due them on a judgment against the Armory Commission of Kentucky for eighteen hundred dollars rendered in the Kenton Circuit Court on June 5, 1936.

Said resolution is as follows, viz.:

WHEREAS the General Assembly of the Commonwealth of Kentucky, at the regular session of 1924 passed what is known as the "Armory Commission Act" by the provisions of which the Armory Commission of Kentucky was created and made a body corporate, its members to consist of the Governor, who should be Chairman, the Adjutant General, and the three highest ranking officers on the active list of the Kentucky National Guard, and,

WHEREAS said Act made it the duty of said Armory Commission to provide adequate armories, buildings, and grounds for the Kentucky National Guard for purposes of drill, instruction, and administration and for safe keeping of

public property of the State and the United States issued for the use of the Kentucky National Guard, and,

WHEREAS said Armory Commission was by said Act empowered in its corporate name to sue and be sued, contract and be contracted with, and acquire by purchase or lease armories, buildings, and other grounds for the purposes above stated, and,

WHEREAS said Armory Commission by virtue of the authority vested in it under said Act did on September 15, 1926, lease in writing for a period of ten years beginning on said date and ending, unless sooner relinquished by the Commission, on September 15, 1936, from Rose Palmer and Louis N. Palmer one combined garage, workshop, and tank park at numbers 307-309 East Forty-seventh Street in the City of Covington Kentucky, for use by the Armory Commission as an armory, stables, and drill grounds, contracting and agreeing to pay as rental therefor the sum of One Hundred Thirty Dollars (\$130) per month payable in quarterly payments of Three Hundred Ninety Dollars (\$390) each, and,

WHEREAS said Armory Commission took immediate possession of the demised premises and occupied and used the same for the purposes for which it was rented until April 25, 1932, and paid rent thereon at the rate of \$130 per month as provided in said written lease to October 1, 1930, but neglected and refused to pay the rent or any part thereof accruing thereunder between the said date of October 1, 1930, and April 25, 1932, on which latter date the Armory Commission exercised its privilege and relinquished the leased premises, and,

WHEREAS Rose Palmer and Louis N. Palmer on June 5, 1936, in an action instituted by them in the Kenton Circuit Court against the Armory Commission for said unpaid rent were awarded judgment against said Commission therefor in the sum of Eighteen Hundred Dollars (\$1,800) with interest from the date of the judgment, on which said judgment the sum of Eleven Hundred Seventy Dollars (\$1,170) has been

paid, leaving an unpaid balance of Six Hundred Thirty Dollars (\$630) with interest from June 5, 1936, for the payment of which balance no provision has been made or exists, THEREFORE,

*Be it Resolved by the General Assembly of the Commonwealth of Kentucky:*

That for the purpose of paying the balance due on the judgment rendered in the Kenton Circuit Court in favor of Rose Palmer and Louis N. Palmer against the Armory Commission of Kentucky for unpaid rent, there is hereby appropriated out of the general revenue of the State the sum of Six Hundred Thirty Dollars (\$630) with interest from June 5, 1936, and the Auditor of Public Accounts is hereby authorized and directed to draw his warrant upon the Treasury for said amount, payable to Rose Palmer and Louis N. Palmer and deliver the same to them for the purpose aforesaid.

Said last named resolutions were ordered printed and referred to the Committee on Kentucky Statutes No. 1.

H. B. 131. An Act amending and re-enacting Section 3235dd-33 of Carroll's Kentucky Statutes, Baldwin's 1936 Revision, being an act relating to appointment of city managers in cities of the second class.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

Section 3235dd-33 of Carroll's Kentucky Statutes, 1936 Revision by Baldwin, is hereby amended and re-enacted so that as amended and re-enacted it shall read as follows:

The city manager shall be chosen by the board of commissioners solely on the basis of his executive and administrative qualifications. The choice shall not be limited to inhabitants of the city or state. He shall be employed for an

indefinite period. He shall be removable at any time without cause by the vote of four or the five members of the board of commissioners, and shall be removable for cause, including wilful neglect of duty, at any time by a majority vote of the members of the board of commissioners, but such removal shall not be effected by a reduction in the compensation of the city manager. If removed by the vote of less than four of the five members of the board of commissioners at any time after having served for six months the city manager may in writing demand that written charges be filed against him by the board and a public hearing on the same before the board of commissioners prior to the date on which his final removal shall take effect, but during such hearing the board of commissioners may suspend him from office. Such public hearing shall be fixed by the board on a date not to exceed thirty days after such demand therefor. The city manager shall have the right to be represented by counsel and to present evidence at the hearing. He shall have the right of appeal to the courts from the decision of the board, except when removed by the vote of four of the five members of the board of commissioners. During the absence or disability of the city manager the board shall designate some properly qualified person to perform the duties of the office. The city manager shall receive such compensation as may be determined by the board of commissioners.

Ordered printed and referred to Committee on Municipalities.

H. B. 78. An Act relating to perversion, an offense against nature, with children under sixteen years of age, defining the same and prescribing penalties therefor.

Said bill reads as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That any person who carnally knows or attempts to know

in any manner any male or female person under sixteen years of age by use of the mouth or rectum of either of them or who by threats or persuasion or any means whatsoever shall cause or induce, persuade or procure any other person under sixteen years of age so to do, shall be guilty of perversion, and upon conviction shall be confined in the penitentiary not less than ten nor more than twenty years in the discretion of the jury.

Ordered printed and referred to Committee Fish & Game.

H. B. 180. An Act to amend Section 965, Carroll's Kentucky Statutes, 1936 Edition, and being the time of holding court in the twenty-fourth Judicial District composed of Johnson and Martin Counties and fixing the time therefor, relating to Circuit Courts.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. That Section nine hundred sixty five, (965) Carroll's Kentucky Statutes, Baldwin's 1936 Revision, be and the same is amended with reference to the Twenty fourth Judicial District of Kentucky, and as amended shall read as follows:

Johnson County—at Paintsville, Kentucky—beginning on the Second Monday in February, Twenty four juridical days; Second Monday in June, Twenty four juridical days; Second Monday in November, Twenty four juridical days.

Martin County—at Inez, Kentucky—beginning on the Third Monday in January, Eighteen juridical days; Third Monday in May, Eighteen juridical days; Third Monday in September, Eighteen juridical days.

§ 2. This Act shall be effective on and after July 1, 1938.



§ 3. All Acts and parts of Acts in conflict herewith are hereby repealed.

Ordered printed and referred to Committee on Judiciary.

H. B. 152. An Act to authorize the judges of police courts in cities of the first and second class to postpone rendition of judgment, to probate the offenders, and to make rules and regulations for the arrest of defendants and enforcement of judgment rendered in certain criminal cases; to provide for the appointment, duties and salary of a probation officer.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

§ 1. In prosecutions for crime, in the police courts in cities of first and second class, except as hereinafter provided, where the defendant has pleaded or been found guilty, and the defendant has never before been convicted of a felony either in this State or elsewhere, and it appears to the satisfaction of the court that the character of the defendant and circumstances of the case are such that he is not likely again to engage in an offensive course of conduct, and the public good does not demand or require that he shall suffer the penalty imposed by law, such court may postpone the rendition of judgment on such terms and conditions as the court may deem proper. Whenever in the opinion of the court the sentence should no longer be postponed, the court shall have power to cause a warrant to issue for the defendant and he may thereupon on his arrest be sentenced and such sentence carried into immediate execution.

§ 2. There may be created by the Board of Commissioners or other governing body of the cities of the first or second class the office of probation officer, whose duty it shall be to act in co-operation with the police department of said cities and to see that all probated offenders do not violate the

law during their term of probation and to check the circumstances of the case to be probated and the character of the defendant and to do any other duty properly requested by the court. Said probation officer shall be named and appointed by the police judge and have all powers now imposed upon police officers. His salary shall be fixed by the governing body of the city, not to exceed eighteen hundred (\$1800.00) dollars a year, to be paid by the city out of revenue derived from the collection of fines and forfeitures imposed by said police court.

§ 3. Whereas it is necessary that some immediate action be taken with reference to first-time, minor offenders, therefore, it is declared that an emergency exists and this act shall take effect immediately upon its passage and approval by the Governor.

§ 4. All laws or parts of laws in conflict herewith are hereby repealed.

Ordered printed and referred to Committee on Courts & Legal Procedure.

H. B. 101. An Act to amend and re-enact Section 1443 Carroll's Kentucky Statutes, Baldwin's 1936 Revision.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

The county court of each county in this state shall, on or before the August term of said courts, divide the justices' districts of each of said counties into election precincts, and establish the name or number and boundaries of same, and place of voting in each precinct. There shall be but one voting place in a precinct. Each precinct shall contain, as nearly as practicable, three hundred voters, based on the number of registered voters residing in precinct. Provided, however, that in precincts containing more than three hundred voters

the election commission of the county may appoint an assistant clerk of the election, who shall be of the same political faith as the regular clerk, and shall receive the same compensation as the clerk. The assistant clerk shall perform such duties as are required by the clerk in conducting the election. If for any good cause, an election can not be held at the house appointed as the place of voting, the judges of the election may, on the morning of the election adjourn it to the most convenient place, and having publicly proclaimed the change and posted notice of the same on said house.

Ordered printed and referred to Committee on Courts & Legal Procedure.

H. B. 158. An Act to authorize the Governor and the administrative departments and independent agencies of the Commonwealth of Kentucky to apply for, receive and expend any Federal funds so received; providing that any and all Federal funds received or which hereafter may be received shall not be embraced within the limitations of any biennial appropriation act, and further prescribing the powers and duties of the Governor and other administrative departments and independent agencies in relation thereto.

Said bill is as follows, viz.:

Whereas, the Commonwealth of Kentucky, acting by and through the Governor and other administrative departments and independent agencies has heretofore applied to the proper Federal agencies for grants of Federal funds for uses and purposes authorized by the laws of the United States and the laws of the Commonwealth of Kentucky; and,

Whereas, it is the desire of the General Assembly of the Commonwealth of Kentucky that the Governor and the administrative departments and independent agencies of the Commonwealth of Kentucky be fully authorized and empowered to procure for the Commonwealth of Kentucky full bene-

fit of the provisions of the Federal laws now enacted and which may hereafter be enacted appropriating Federal funds or authorizing the grant or use of Federal funds for the construction, improvement, maintenance and repair of public property and for other public purposes beneficial to the Commonwealth of Kentucky; and,

Whereas, the Department of Welfare and the Governor of the Commonwealth of Kentucky have heretofore applied for Federal funds to be used and expended in connection with the acquisition of real estate and the construction of a new State Reformatory and eleemosynary institutions in the Commonwealth of Kentucky; and,

Whereas, an authorized department or agency of the United States Government has approved one or more of said applications, conditioned in part upon express authority, ratification and approval of the General Assembly of Kentucky for the receipt and expenditure of Federal funds as an appropriation in addition to and supplementing the appropriations contained in the biennial appropriation act enacted by the General Assembly of Kentucky in 1936;

*Now, therefore, be it enacted by the General Assembly of the Commonwealth of Kentucky, that:*

§ 1. The Governor and the administrative departments and independent agencies of the Commonwealth of Kentucky hereby are authorized and empowered to apply for, receive, accept and expend any Federal funds that may have been procured or that may hereafter be procured from the United States of America, or any department or agency thereof. All such Federal funds heretofore procured and all such funds hereafter procured shall be expended for the purposes for which obtained, and the expenditure thereof hereby is authorized and said funds hereby appropriated for such uses and purposes, in addition to such State funds as have heretofore or may hereafter be appropriated by the General Assembly of the Commonwealth of Kentucky to any administrative de-

partment or independent agency. Any limitation of amount contained in the biennial appropriation act of 1936, or the biennial appropriation act of 1938, and any subsequent biennial appropriation act, shall not be construed as including such Federal funds heretofore or hereafter procured.

§ 2. The Governor and each administrative department and independent agency with the approval of the Governor, hereby are authorized and empowered to enter into contracts and agreements with the United States Government or any department or agency thereof, and to do all other things necessary to fully carry out the powers and duties aforesaid as may be required by any official, Act of Congress or by rules, regulations or rulings of the President of the United States or of any department or agency of the United States relating to the grant or expenditure of Federal funds in the Commonwealth of Kentucky for any of the uses or purposes aforesaid.

§ 3. The Department of Welfare hereby is authorized to accept from the United States of America or from any of its departments or agencies, money under any grant or agreement heretofore or hereafter entered into by the Commonwealth of Kentucky or the Department of Welfare, and to expend the funds so granted or which may be so granted, in addition to any and all other funds heretofore or hereafter appropriated to the Department of Welfare by the General Assembly of Kentucky. The Department of Welfare hereby is authorized to expend any Federal funds heretofore received or which may hereafter be received, for the purchase of land, for the erection of buildings for the use of the Department of Welfare, for the confinement of convicts or for the construction of hospitals for the insane, feeble-minded or epileptic wards of the State, or any other authorized purposes for which said funds may have been granted or may hereafter be granted.

§ 4. Notwithstanding any other provisions of the laws of the Commonwealth of Kentucky, any unexpended balance of Federal funds or funds received from the United States of



America, or any department or agency thereof, in any fiscal year, shall be carried forward and credited to the department or agency for whose credit or for whose benefit such funds were received, and shall be available for expenditure during the next or any succeeding fiscal year. The Legislative intent of the General Assembly of the Commonwealth of Kentucky hereby is declared to be that any appropriation herein made of such Federal funds shall constitute a continuing appropriation, and that any restrictions now imposed by law relating to fiscal years shall not apply to any such funds received or which may be received from the United States of America or any department or agency thereof.

§ 5. Whereas, the Commonwealth of Kentucky, acting by and through the Department of Welfare is now engaged and is about to further engage in the construction of buildings and improvements to be used for the confinement of convicts and for the hospitalization and housing of the insane, feebleminded and epileptic wards of the State; and, whereas, it is deemed by the General Assembly that it is necessary and advisable that the powers and duties prescribed in this Act be made effective immediately in order that the Commonwealth of Kentucky may receive full benefits of Federal funds and grants; an emergency hereby is declared to exist and this Act shall be effective immediately upon its passage and approval by the Governor.

§ 6. All laws or parts of laws in conflict herewith, to the extent of such conflict hereby are repealed.

Ordered printed and referred to Committee on Appropriations.

H. B. 123. An Act to amend Section 127 of the Criminal Code of Practice, Baldwin's Revision of 1932, so that the offenses of forgery and uttering a forged instrument may be charged in one indictment.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

That Section 127 of the Criminal Code of Practice, Baldwin's Revision of 1932, be amended by adding thereto as subsection 7 the phrase, "Forgery and uttering a forged instrument," so that as amended said section will read:

Section 127. *Joinder of offenses in indictment.* The offenses named in each of the subdivisions of this section may be charged in one indictment:

1. Larceny and knowingly receiving stolen property.
2. Larceny and obtaining money or property on false pretenses.
3. Larceny and embezzlement.
4. Robbery and burglary.
5. Robbery and assault with intent to rob.
6. Passing or attempting to pass counterfeit money or United States currency or bank notes, knowing them to be such, and having in possession counterfeit money or United States currency or bank notes, knowing them to be such, with the intention of circulating the same.
7. Forgery and uttering a forged instrument.

Ordered printed and referred to Committee on Judiciary.

H. B. 211. AN ACT providing for the payment of unemployment compensation to designated classes of persons, and for the administration thereof; declaring a State public policy; defining certain terms; creating an administrative organization and prescribing salaries; establishing an employment service, providing for the administration thereof; making an appropriation therefor; prescribing salaries, and accepting the Wagner-Payser Act, as amended; providing for State-Federal co-operation; providing for the appointment of a committee to

study merit rating; establishing an unemployment compensation administration fund, and special accounts therein, and making appropriations therefor; providing for the determination of the period, election and termination of employer coverage; exempting certain employment; exacting certain contributions from designated classes of employers and workers and providing for a method of fixing future rates; providing methods of collection and adjustment thereof; providing for refunds under certain conditions; prescribing benefits, and eligibility conditions for benefits; defining claims for benefits, setting up methods of procedure for claiming and determining benefits, providing for reduction of benefits for certain groups and providing for hearings and review of disputed claims; providing for appeals to the courts; appropriating all moneys collected and received under this Act; providing for the protection of rights and benefits; providing for reciprocal benefit arrangements with other states or the United States; providing for the establishment and administration of an unemployment insurance fund, for the creation of certain accounts therein, and for the discontinuance and disposition of the fund in the event of certain contingencies; providing certain penalties; providing for representation in court; providing for the continuation of the administrative organization, funds, liabilities and credits under the Unemployment Compensation Law of 1936; providing for the non-liability of the State; including a saving clause and a separability clause; repealing the Unemployment Compensation Law of 1936 and conflicting laws; and declaring an emergency.

Said bill is as follows, viz.:

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

#### SHORT TITLE

§ 1. This Act shall be known and may be cited as the "Unemployment Compensation Law".

## DECLARATION OF STATE PUBLIC POLICY

§ 2. As a guide to the interpretation and application of this Act, the public policy of this State is declared to be as follows:

Economic insecurity due to unemployment is a serious menace to the health, morals and welfare of the people of this State. Involuntary unemployment is therefore a subject of general interest and concern which requires appropriate action by the General Assembly to prevent its spread and to lighten its burden which now so often falls with crushing force upon the unemployed worker and his family. The achievement of social security requires protection against this greatest hazard of our economic life. This can be accomplished by encouraging employers to provide more stable employment and by the systematic accumulation of funds during periods of employment to furnish benefits for periods of unemployment, thus maintaining purchasing power and limiting the serious social consequences of poor relief assistance. The General Assembly, therefore, declares that in its considered judgment the public good and the general welfare of the citizens of this State require the enactment of this measure, under the police power and other reserved powers of this State, for the compulsory setting aside of unemployment reserves to be used for the benefit of persons unemployed through no fault of their own. This Act is enacted as a part of a national plan of unemployment compensation and social security.

## DEFINITIONS

§ 3. As used in this Act, unless the context clearly requires otherwise:

(a) "Commission" means the Unemployment Compensation Commission created pursuant to Section 4 (a) of this Act. Be it provided, however, that wherever the term "Commission" is used to denote the authority required under

this Act to perform administrative or ministerial functions, it shall be construed to mean the Executive Director of the Unemployment Compensation Commission who sits *ex officio* as the chairman of the Commission, instead of the Commission composed of three members.

The administrative or ministerial functions shall be construed to include the routine of operating and managing the activities incident to the handling of records, reports, files, correspondence, the employment of personnel and the management of same, the conduct of negotiations with employers, workers, and co-operation with the Social Security Board authorized hereunder and all such functions of a similar nature, but administrative or ministerial functions shall not be construed to include the adjudication of any disputed claims or appeals or any similar matters of a quasi-judicial nature nor the adoption, promulgation, amendment, or rescission of general or special rules or regulations of general application, except that as to regulations the Executive Director may prescribe the same where the exigencies of the situation in his judgment require their immediate prescription.

(b) "Fund" means the Unemployment Insurance Fund established by this Act, to which all contributions required, and from which all benefits provided under this Act, shall be paid.

(c) "State" includes, in addition to the states of the United States of America, Alaska, Hawaii, and the District of Columbia.

(d) "Employment office" means a free public employment office, or branch thereof, operated by this State, or, where the context allows, by any state or maintained as a part of the state-controlled system of public employment offices of any state.

(e) "Contributions" means the money payments to the State Unemployment Insurance Fund required by this Act.

(f) "Benefits" means the money payments payable to



a worker under this Act with respect to his partial or total unemployment.

(g) "Wages" means all remuneration payable for services, including commissions and bonuses, and the cash value of all remuneration payable in any medium other than cash. Gratuities and tips customarily received by an individual in the course of his employment from persons other than his employing unit shall not be treated as wages payable by his employing unit. The reasonable cash value of remuneration payable in any medium other than cash shall be estimated and determined in accordance with rules prescribed by the Commission. Amounts paid to traveling salesmen or other workers as allowance or reimbursement for traveling or other expenses, incurred on the business of the employing unit, shall be deemed to constitute wages only to the extent of the excess of such amounts over such expenses actually incurred and accounted for by the worker, in accordance with rules prescribed by the Commission.

(h) "Reserve account" means a separate reserve account maintained by the Commission in the fund under Section 15 (a), (b), (c), and (d) of this Act. No amount shall be considered to be in any reserve account on any date which has not been actually received by the Commission by that date, and no benefit amount shall be considered to be deducted from the reserve account by any date for which a check has not been written and sent by that date.

(i) "Annual payroll" means the total amount of wages payable by a subject employer (regardless of the time of payment) for covered employment during a consecutive twelve month period.

(j) "Covered employment"

(1) "Covered employment", subject to the other provisions of this subsection, means service, including service in interstate commerce, performed for wages or under any contract of hire, written or oral, express or implied in which the relationship of the individual performing such service

and the employing unit for which such services are rendered is, as to those services, the legal relationship of employer and employee.

(2) The term "covered employment" shall include a worker's entire service, performed within or both within and without this State if:

(A) The service is localized in this State; or

(B) The service is not localized in any state, but some of the service is performed in this State, and;

(i) The base of operations, or, if there is no base of operations, then the place from which such service is directed or controlled, is in this State; or

(ii) The base of operations or place from which such service is directed or controlled is not in any state in which some part of the service is performed, but the worker's residence is in this State.

(3) Services not covered under paragraph (1) or (2) of this subsection, and performed entirely without this State, with respect to no part of which contributions are required and paid under an unemployment compensation law of any other state or of the Federal Government, shall be deemed to be covered employment if the worker performing such services is a resident of this State and if the Commission approves the election of the employing unit for which such services are performed that the entire service of such worker shall be deemed to be covered employment.

(4) Service shall be deemed to be localized within a state if:

(A) The service is performed entirely within such state; or

(B) The service is performed both within and without such state, but the service performed without such state is incidental to the worker's service within the state, for example, is temporary or transitory in nature or consists of isolated transactions.

(5) Unless the employing unit thereof has elected that

such services become covered employment under the provisions of Section 6 (c) of this Act, the term "covered employment" shall not include:

(A) Agricultural labor;

(B) Domestic service in a private home;

(C) Service performed in the employ of this State, or any political subdivision thereof or of any of its municipalities;

(D) Service performed in the employ of any other state or of any political subdivision thereof, or of the United States Government;

(E) Service with respect to which unemployment compensation is payable under an unemployment compensation system established by an Act of Congress, provided that the Commission is hereby authorized and directed to enter into agreements with the proper agencies under such Act of Congress, which agreements shall become effective ten days after publication thereof in the manner provided in Section 4 (e) of this Act for general rules, to provide reciprocal treatment to workers who have after acquiring potential rights to benefits under this Act, acquired rights to unemployment compensation under such Act of Congress, or who have, after acquiring potential rights to unemployment compensation under such Act of Congress, acquired rights to benefits under this Act;

(F) Service performed as an officer or member of the crew of a vessel on the navigable waters of the United States;

(G) Service performed by a worker in the employ of his son, daughter, or spouse and service performed by a child under the age of twenty-one in the employ of his father or mother;

(H) Service performed in the employ of a corporation, community chest, fund or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes or for the prevention of cruelty to children

or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(k) "Employing unit" means any individual or type of organization, including any partnership, association, society, trust, estate, joint-stock company, corporation, insurance company, whether any of these are domestic or foreign, or the receiver, trustee in bankruptcy, trustee or successor thereof, or the legal representative of a deceased person, or this State or any department, political subdivision or municipality thereof, which has or subsequent to January 1, 1936, had one or more workers performing services for it within this State, or one or more workers performing services for it in covered employment in any state.

All workers performing services within this State for any employing unit which maintains two or more separate establishments within this State shall be deemed to be employed by a single employing unit for all the purposes of this Act.

(1) "Subject employer" means:

(1) Any employing unit which, in each of three calendar quarters in the preceding calendar year, had in covered employment four or more workers (whether or not the same workers), to as many as four of whom at least fifty dollars in wages was payable to each with respect to such covered employment in each such quarter.

(2) Any employing unit which for some portion of a day (but not necessarily simultaneously) in each of twenty different weeks whether or not such weeks are or were consecutive, within either the current or the preceding calendar year, has or had in covered employment eight or more workers (irrespective of whether the same workers are or were employed in each such day).

(3) Any individual or employing unit which acquires any of the assets of a subject employer by any means whatever otherwise than in the ordinary course of trade unless

the Commission finds that all of the following conditions exist:

(A) The transferee has not assumed a substantial amount of the transferor's obligations;

(B) The transferee has not acquired a substantial amount of the transferor's good will;

(C) The transferee has not continued or resumed a substantial part of the business of the transferor, either in the same establishment or elsewhere; and

(D) The transferee has not employed substantially the same workers as those the transferor had employed in connection with the assets transferred.

(4) Any individual or employing unit which acquires the organization, trade or business, or substantially all the assets thereof, of another employing unit, if the covered employment record of such individual or employing unit subsequent to such acquisition, together with the covered employment record of the acquired unit, prior to such acquisition, both within the same calendar year, would be sufficient to constitute such acquiring individual or employing unit a subject employer under the provisions of paragraph (1) or (2) of this subsection.

(5) Any other employing unit which has elected to become subject to this Act, pursuant to Section 6 (c).

(6) Any employing unit which was in 1937 liable for the payment of contributions under the Kentucky Unemployment Compensation Law of 1936.

(7) Any employing unit which, having become a subject employer under paragraphs (1) to (6) of this subsection, inclusive, has not ceased to be a subject employer under Section 6 of this Act.

(m) Calendar period shall be construed as follows, except insofar as the Commission may by regulation prescribe the equivalent thereof to meet particular conditions:

(1) "Calendar year" means a year beginning on January 1st;



(2) "Calendar quarter" means three consecutive months beginning on January 1st, April 1st, July 1st or October 1st.

(n) "Week" means such period of seven consecutive calendar days as the Commission may by regulation prescribe.

(o) "Total and partial unemployment".

(1) A worker shall be deemed "totally unemployed" in any week in which he performs no services for wages and in which his regular employment or other suitable work is not available to him.

(2) A worker shall be deemed "partially unemployed" in any week of less than full time work if the wages payable to him for such week or such wages as his regular employment or other suitable work available to him would permit him to earn, are less than the benefit amount he would be entitled to receive if totally unemployed and eligible.

(3) As used in this subsection, the term "wages" shall not include remuneration for odd-jobs and subsidiary work, and the term "services" shall not include odd-jobs and subsidiary work.

(p) "Base period" means the period beginning with the first day of the nine completed calendar quarters immediately preceeding the first day of a worker's benefit year, and with the last day of the next to the last completed calendar quarter immediately preceeding any week with respect to which benefits are payable, provided that with respect to any benefit year which begins prior to April 1, 1939, "base period" shall mean those calendar quarters beginning with January 1, 1937, and ending with the last day of the next to the last completed calendar quarter immediately preceding any week with respect to which benefits are payable.

(q) "Benefit year" with respect to any worker means the fifty-two consecutive week period beginning with the first day of the week with respect to which benefits are first payable to him, and thereafter, the fifty-two consecutive week period beginning with the first day of the first week with re-

spect to which benefits are next payable to him after the termination of his last preceding benefit year.

(r) "Weekly benefit amount". A worker's "weekly benefit amount" means the amount of benefits he would be entitled to receive for one week of total employment prior to any deductions therefrom for remuneration for odd-jobs and subsidiary work.

### ADMINISTRATIVE ORGANIZATION

§ 4. Unemployment Compensation Commission. There is hereby created in the Department of Industrial Relations a Commission composed of and administered by an Executive Director and two Associate Directors, which shall be known as the Unemployment Compensation Commission.

The Executive Director of the Unemployment Compensation Commission and the Associate Directors shall be appointed by the Governor; the Executive Director shall be appointed as a disinterested representative of the State and the public, and shall be ex officio Chairman of the Commission; one Associate Director shall be appointed as a representative of labor, and one Associate Director shall be appointed as a representative of employers. These Directors shall be appointed for terms not to exceed four years on the basis of their merit and fitness to perform the duties and exercise the responsibilities of their respective offices, and may be removed by the Governor.

Every member so appointed shall serve until his successor is appointed and qualified, and any appointment to a vacancy shall be for the unexpired term in question.

There are hereby established under the Commission, two co-ordinate sections, the Kentucky State Employment Service, created pursuant to sub-section (o) of this Section, and the Unemployment Compensation Section. Each section shall be responsible for the discharge of its distinctive functions. Each section shall be a separate administrative unit with respect to personnel, budget, and duties, except in so far as the Com-

mission may find that such separation is impracticable. The Kentucky State Employment Service shall be administered by a full-time, salaried Director who shall be appointed by the Governor and shall be subject to the supervision and direction of the Commission. The Commission is authorized to prescribe the duties of the Director of the Kentucky State Employment Service in accordance with the provisions of subsection (o) of this Section. Neither the Director of the Kentucky State Employment Service nor the Executive Director of the Unemployment Compensation Commission shall, during his term of office, engage in any other business, vocation, or employment; and neither the Executive Director nor any Associate Director shall, during his term of office, serve as an officer or committee member of any political party organization.

(b) Quorum. The Chairman and one other member of the Commission shall constitute a quorum.

(c) Salaries. Because of increased and added responsibilities devolving upon the Commissioner of Industrial Relations by virtue of the enactment of this measure, the salary of the Commissioner is hereby authorized to be increased from Four Thousand Dollars per annum, as previously provided, to a sum not exceeding Five Thousand Dollars per annum to be fixed by the Governor. The Executive Director of the Unemployment Compensation Commission shall be paid from the Unemployment Compensation Administration Fund a fixed salary at a rate to be fixed by the Governor and the Social Security Board, not to exceed Five Thousand Dollars per annum, plus necessary expenses, and shall devote his full time to the duties of his office. Each Associate Director representing labor or employers shall be paid from the Unemployment Compensation Administration Fund fees at the rate of Twenty Dollars each per day, plus necessary expenses, while engaged in the discharge of his official duties, not exceeding total fees of Two Hundred and Fifty Dollars per month dur-

ing the year 1938 nor Four Hundred Dollars per month during the year 1939 and any year thereafter.

(d) Duties and powers of the Commission and the Executive Director. It shall be the duty of the Commission to administer this Act; except that the Executive Director shall have power to employ such persons, make such expenditures, require such reports, make such investigations, and to take such other administrative action as he deems necessary for the proper administration of this Act. The Commission shall have the power and authority to adopt, amend, or rescind such rules and regulations as it deems necessary or suitable for the proper administration of this Act. The Commission shall determine its own organization and methods of procedure in accordance with the provisions of this Act, and shall have an official seal which shall be judicially noticed. Not later than the first day of February of each year, the Commission shall submit to the Governor a report covering the administration and operation of this Act during the preceding calendar year and shall make such recommendations for amendments to this Act as the Commission deems proper. Such report shall include a balance sheet of the moneys in the fund in which shall be provided, if possible, a reserve against the liability in future years to pay benefits in excess of the then current contributions, which reserve shall be set up by the Commission in accordance with accepted actuarial principles on the basis of statistics of employment, business activity and other relevant factors for the longest possible period. Whenever the Commission believes that a change in contribution or benefit rates will become necessary to protect the solvency of the fund it shall promptly so inform the Governor and make recommendations with respect thereto.

(e) Regulations and general and special rules. General and special rules may be adopted, amended, or rescinded by the Commission only after public hearing or opportunity to be heard thereon, of which proper notice has been given.

General rules shall become effective ten days after approval by the Commissioner of Industrial Relations and filing with the Secretary of State and publication in the manner which the Commissioner shall prescribe. Special rules shall become effective ten days after notification of or mailing to the last known address of the individuals or concerns affected thereby. Regulations may be adopted, amended, or rescinded by the Commission and shall become effective in the manner and at the time prescribed by the Commission, except as to regulations that the Executive Director may prescribe as provided in subsection (a) of Section 3.

(f) Publication. The Commission shall cause to be printed for distribution to the public the text of this Act, the Commission's regulations and general rules and its annual reports to the Governor, and any other material the Commission deems relevant and suitable, and shall furnish the same to any person upon application therefor.

(g) Personnel. Subject to subsection (d) of this Section, and to other provisions of this Act, the Commission is authorized to appoint, fix the compensation and prescribe the duties and powers of such officers, accountants, attorneys, experts, examiners, referees and other persons as may be necessary in the performance of its duties under this Act. All positions shall be filled by persons selected and appointed on a nonpartisan merit basis. The Commission shall not employ or pay any person who is an officer or committee member of any political party organization. The Commission may, by written orders, delegate to any such person so appointed such power and authority as it deems reasonable and proper for the effective administration of this Act, and may in its discretion bond any person handling moneys or signing checks hereunder.

(h) Advisory Councils. The Commission shall appoint a State Advisory Council and may appoint local Advisory Councils, composed in each case of equal numbers of employer representatives and employee representatives who may fairly



be regarded as representative because of their vocation, employment, or affiliations, and of such members representing the general public as the Commission may designate. Such Councils shall aid the Commission in formulating policies and discussing problems related to the administration of this Act and in assuring impartiality and freedom from political influence in the solution of such problems. Such Advisory Councils shall serve without compensation, but they shall be reimbursed for any necessary expenses.

(i) Employment stabilization. The Unemployment Compensation Commission and the Director of the Kentucky State Employment Service, with the advice and aid of the Advisory Councils, and through the proper sections, shall take all appropriate steps to reduce and prevent unemployment; to encourage and assist in the adoption of practical methods of vocational training, retraining and vocational guidance; to investigate, recommend, advise, and assist in the establishment and operation by municipalities, counties, school districts and the state, of reserves for public works to be used in times of business depression and unemployment; and to promote the reemployment of unemployed workers throughout the State in every other way that may be feasible and to these ends to carry on and publish the results of investigations and research studies.

(j) Records and reports. Each employing unit shall keep true and accurate work records of all workers employed by it, of the wages paid by it to each worker, and such other information as may be deemed necessary by the Commission for the proper administration of this Act. Such records shall be open for inspection and subject to being copied by the Commission or its authorized representatives at any reasonable time and as often as may be necessary. The Commission may require any employing unit to furnish to it from time to time information concerning the total amount of wages paid, total number of persons employed, an individual record of each worker employed, an individual record of each worker

whose employment has been terminated or who has been laid off, an individual record of each worker employed part-time entitled to benefits, and other related matters including hours worked, which the Commission deems necessary to the effective administration of this Act. Information thus obtained shall not be published or be open for public inspection (other than to public employees in the performance of their public duties) in any manner revealing the employing unit's identity, but any claimant at a hearing before the Commission or its duly authorized representative shall be supplied with information from such records to the extent necessary for the proper presentation of his claim. Any employee of the Unemployment Compensation Commission or any other State department who violates any provision of this Section shall be deemed guilty of a misdemeanor and upon conviction be fined not less than Twenty Dollars nor more than Two Hundred Dollars, or imprisoned for not longer than ninety days, or both.

(k) Oaths and witnesses. In the discharge of the duties imposed by this Act, the members of the Commission, or the duly authorized representatives of the Commission, as designated by its regulations, shall have power to administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda and other records deemed necessary and relevant as evidence in connection with the disputed claim or the administration of this Act.

(l) Subpoenas. In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this State within the jurisdiction of which the inquiry is carried on, or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the Commission, or its duly authorized representative, shall have jurisdiction to issue to such person an order requiring such person to appear before

the Commission or a member thereof, or its duly authorized representative, there to produce evidence if so ordered, or there to give testimony touching the matter under investigation or in question. Any failure to obey such order of the court without just cause may be punished by said court as a contempt thereof.

(m) Protection against self-incrimination. No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda and other records before the Commission or a member thereof or its duly authorized representative on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no person, firm or corporation shall be prosecuted or subjected to any suit, penalty, or forfeiture for, or on account of, any transaction, matter, or thing concerning which it or its agent or worker is compelled, after having claimed privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such witness so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(n) State-Federal co-operation. In the administration of this Act, the Commission shall co-operate to the fullest extent consistent with the provisions of this Act, with the Social Security Board, created by the Social Security Act, approved August 14, 1935, as amended, shall make such reports in such form and containing such information as the Social Security Board may from time to time require, shall comply with such provisions as the Social Security Board may from time to time find necessary to assure the correctness and verification of such reports, and shall comply with regulations prescribed by the Social Security Board governing the expenditure of such funds as may be allotted and paid to this State under Title III of the Social Security Act for the purpose of assisting in the administration of this Act.

Upon request therefor the Commission shall furnish to

any agency of this or any other state or the United States charged with the administration of public works or assistance through public employment or otherwise the name, address, ordinary occupation and employment status of each recipient of benefits and such recipient's rights to further benefits under this Act.

If the Commission finds it necessary in order to preserve the maximum advantages of State-Federal co-operation for the employers and workers of this State, it may, by general rule, prescribe that, as used in this Section, and in subsections (g) and (i), and paragraph (1) of subsection (1) of Section 3, "wages payable during any period" shall be construed to mean only such wages as are actually paid within such period.

(o) Kentucky State Employment Service. The Commission shall create a section to be known as the Kentucky State Employment Service and shall establish and maintain free public employment offices in such number and in such places as may be necessary for the proper administration of this Act and for the purpose of performing such duties as are within the purview of the Act of Congress, entitled "An Act to provide for the establishment of a national employment service and for co-operation with the states in the promotion of such system, and for other purposes", approved June 6, 1933 (48 Stat. 113, U. S. Code, Title 29, Section 49 (c) ), as amended, and known as the Wagner-Peyser Act. Any existing employment offices maintained by the State but not heretofore under the jurisdiction of the Commission shall be immediately transferred to the jurisdiction of the Unemployment Compensation Commission and upon such transfer all duties and powers conferred upon any other department, agency, or officer of this State relating to the establishment, maintenance, and operation of free employment offices shall be vested in the Unemployment Compensation Commission. The Employment Service Section of the Unemployment Com-

pensation Commission shall be administered by a full-time salaried Director, who, with the approval of the Commission, shall be charged with the duty to co-operate with any official or agency of the United States having powers or duties under the provisions of the said Act of Congress, as amended, and to do and perform all things necessary to secure to this State the benefits of the said Act of Congress, as amended, in the promotion and maintenance of a system of public employment offices. The provisions of the said Act of Congress, as amended, are hereby accepted by this State, in conformity with Section 4 of said Act, and this State will observe and comply with the requirements thereof. The Unemployment Compensation Commission through the Kentucky State Employment Service Section is hereby designated and constituted the agency of this State for the purpose of said Act. The Director of the Employment Service shall be paid a fixed monthly salary at a rate to be fixed by the Governor and the Director of the United States Employment Service not to exceed Four Thousand Five Hundred Dollars per annum. The Governor is directed to appoint the Director, and the Director is authorized to appoint the other officers and employees of the Kentucky State Employment Service, subject to the approval of the Governor. All such appointments shall be made in accordance with regulations prescribed by the Director of the United States Employment Service.

(p) Study of Merit Rating. The Commission shall appoint a committee of three members who shall make a study of merit rating and prior to November 1, 1939, shall make recommendations to the Commission with respect thereto. Such committee shall consist of one member representative of labor, one member representative of employers, and one member representative of the public who shall be chairman. Not later than December 1, 1939 the report and recommendations of the committee shall be transmitted by the Commission with its recommendations, to the Governor. The cost



of this study shall be considered an expense of the administration of this Act.

### UNEMPLOYMENT COMPENSATION ADMINISTRATION FUND

§ 5. (a) Special Fund. There is hereby created in the State Treasury a special fund to be known as the Unemployment Compensation Administration Fund. All moneys which are deposited or paid into this fund are hereby appropriated and made available to the Unemployment Compensation Commission for the use of the Unemployment Compensation and Employment Service Sections. All moneys in this fund shall be expended solely for the purpose of defraying the cost of the administration of this Act, and for no other purpose whatsoever. The fund shall consist of all moneys appropriated by this State and all moneys received from the United States of America, or any agency thereof including the Social Security Board, the United States Employment Service, or from any other source, for such purpose. All moneys in this fund shall be deposited, administered and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury. Any balance in this fund shall not lapse at any time but shall be continuously available to the Unemployment Compensation Commission for the use of the Employment Service and Unemployment Compensation Sections for expenditures consistent with this Act. The State Treasurer shall give a separate and additional bond conditioned upon the faithful performance of his duties in connection with the Unemployment Compensation Administration Fund in an amount to be fixed by the Commission and approved by the Governor and in a form prescribed by law and approved by the Attorney General. The premiums for such bond and the premiums for the bond given by the treasurer of the Unemployment Insurance Fund under Section 14 of this Act, shall be paid

from the moneys in the Unemployment Compensation Administration Fund.

(b) Employment Service account. A special "employment service account" shall be maintained as a part of the Unemployment Compensation Administration Fund for the purpose of maintaining the employment offices established pursuant to Section 4 (o) of this Act and for the purpose of co-operating with the United States Employment Service. There is hereby set aside to the employment service account of the Unemployment Compensation Administration Fund from money in the State Treasury appropriated by the General Assembly of 1938, for the fiscal year ending June 30, 1939, the sum of Thirty Thousand Dollars and for the fiscal year ending June 30, 1940, the sum of Thirty Thousand Dollars. In addition, there shall be paid into such account the moneys designated in subsection (c) of this Section, and such moneys as are apportioned for the purpose of this account from any moneys received by this State under Title III of the Social Security Act, as amended, or received from any other source whatsoever.

(c) Financing the Employment Service Section. All moneys received by this State under the said Wagner-Peyser Act of Congress, as amended, shall be paid into the special employment service account in the Unemployment Compensation Administration Fund and said moneys are hereby made available to the Kentucky State Employment Service to be expended under the supervision of the Unemployment Compensation Commission as provided by this Section and by said Act of Congress. For the purpose of establishing and maintaining free employment offices, said section with the approval of the Unemployment Compensation Commission is authorized to enter into agreements with any political subdivision of this State or any of its municipalities or with any private, non-profit organization, and as a part of any such agreement the Director of the Kentucky State Employment Service may accept moneys, services, or quarters as a con-

tribution to the employment service account in the Unemployment Compensation Administration Fund.

### PERIOD, ELECTION AND TERMINATION OF EMPLOYER'S COVERAGE

§ 6. (a) Duration of Liability. Any employing unit which is or becomes subject to this Act within any calendar year shall be deemed to be a subject employer during the whole of such calendar year, except as specifically provided in subsection (c) of this Section or elsewhere in this Act.

(b) Termination of Liability. Except as otherwise provided in subsection (c) of this Section, a subject employer shall cease to be a subject employer only as of the first day of January of any calendar year if he files with the Commission, prior to the last day of January of such year, or within sixty days after the effective date of this Act, a written application for termination of coverage, and the Commission finds that the covered employment performed for such subject employer within the preceding calendar year was not sufficient to render an employing unit a subject employer under the provisions of Paragraphs (1), (2), (3), (4), (6) and (7) of subsection (1) of Section 3 of this Act.

(c) Election of Liability.

(1) Any employing unit not otherwise subject to this Act, which files with the Commission its written election to become a subject employer for not less than two calendar years, shall with the written approval of such election by the Commission, become subject hereto to the same extent as all other subject employers, as of the date stated in such approval, but not with respect to the period previous to such date. Such subject employer shall cease to be subject hereto as of January 1st of any calendar year subject to such two calendar years, only if prior to the last day of January of such year, it has filed with the Commission a written notice to that effect.

(2) Any employing unit for which services that do not

constitute covered employment as defined in this Act are performed, may file with the Commission a written election that all such services performed by individuals in its employ in one or more distinct establishments or places of business shall be deemed to constitute covered employment by a subject employer for all the purposes of this Act for not less than two calendar years. Upon written approval of such election by the Commission, such services shall be deemed to constitute covered employment from and after the date stated in such approval, but not with respect to the period previous to such date. Such services shall cease to be deemed covered employment subject hereto as of January 1st of a calendar year subsequent to such two calendar years, only if prior to the last day of January of such year such employing unit has filed with the Commission a written notice to that effect.

### CONTRIBUTIONS

§ 7. (a) Payments. (1) After December 31, 1937, contributions shall accrue and become payable by each subject employer for each calendar year in which he is subject to this Act, with respect to wages payable for covered employment occurring during such calendar year. Such contributions shall become due and be paid by each subject employer to the Commission for the fund in accordance with such regulations as the Commission may prescribe, and shall not be deducted, in whole or in part, from the wages of workers in his employ.

(2) In the payment of any contributions, a fractional part of a cent shall be disregarded unless it amounts to one-half cent or more, in which case it shall be increased to one cent.

(b) Rates of Contributions. Each subject employer shall pay contributions equal to the following percentages of wages payable by him with respect to covered employment.

(1) Two and seven-tenths (2.7) per centum with respect

to covered employment during the calendar years 1938 and 1939, and for the first six months of 1940; and

(2) With respect to covered employment on and after July 1, 1940, the percentage determined pursuant to subsection (c) of this Section.

(c) Future rates based on benefit experience.

(1) Each subject employer's contribution rate shall be two and seven-tenths (2.7) per centum except as otherwise provided in this subsection.

(2) The rate applicable to each subject employer shall be two and seven-tenths (2.7) per centum until the end of the third calendar year in which contributions have been paid into his reserve account, and no employer's rate shall be less than two and seven-tenths (2.7) per centum unless benefits could have been payable from his account throughout the preceding calendar year to any worker in his employ who became unemployed and eligible.

(3) The Commission shall determine each subject employer's rate for the six months commencing July 1, 1940, upon the basis of his actual experience in the payment of contributions credited to his reserve account and with respect to benefits charged against his reserve account during the preceding calendar year. For the calendar year 1941 and for each calendar year thereafter each subject employer's rate shall, subject to Section 15 (f) of this Act, be determined upon the basis of his actual experience in the payment of contributions credited to his reserve account and with respect to benefits charged against his reserve account during the twelve months period ending June 30th of the preceding calendar year. If, as of such dates, the total of all the contributions paid and credited to his account for all past years in accordance with the provisions of this Act exceed the total benefits charged to such account for all such years by at least five times the largest annual total amount of benefits charged against such account within any one of the three preceding years, his contribution rate shall:



(A) Be one and eight-tenths (1.8) per centum if such excess equals or exceeds ten but is less than fifteen per centum of his annual payroll for the preceding year;

(B) Cease if such excess equals or exceeds fifteen (15) per centum of his annual payroll for the preceding year.

(4) If, on January 1, 1940, July 1, 1940, or July 1st of any year thereafter, the total of all the contributions paid and credited to a subject employer's account for all past periods in accordance with the provisions of this Act, fails to exceed the total benefits charged against such account during the same period by three (3) per centum of his annual payroll for the preceding year, the contribution rate for such employer shall be three and seven-tenths (3.7) per centum for the six months commencing July 1, 1940, or the twelve months commencing January 1st of any year thereafter.

(d) Contribution by workers.

(1) Each worker shall contribute to the pooled account one (1) per centum of his wages paid by a subject employer with respect to his covered employment which occurs after December 31, 1937 and after such subject employer has satisfied the conditions set forth in subsection (1) of Section 3 with respect to becoming a subject employer; provided that in no case shall the rate of contribution required of any worker exceed fifty (50) per centum of the total rate of contribution required from his subject employer with respect to such wages for the same period, and provided further, that no worker shall be required to pay contributions on that part of his wages which, after wages equal to Three Thousand Dollars have been paid such worker by a subject employer with respect to covered employment during any calendar year, are paid to such worker by such subject employer with respect to such covered employment during the same calendar year. Each subject employer shall be liable for his worker's contributions and may, notwithstanding any provisions of the law in this State to the contrary, withhold in trust the amount of his workers' contributions from their wages at the time

such wages are paid, and may show such deduction on his payroll records, provided he furnishes such evidence thereof to his workers as the Commission may prescribe. Each subject employer shall transmit all such contributions to the Commission in such manner and at such times as the Commission may prescribe. If any subject employer fails to deduct the contributions of any of his workers at the time their wages are paid, or fails to make a deduction therefor at the time wages are paid for the next succeeding payroll period, he alone shall thereafter be liable for such contributions, but for the purpose of Section 8 hereof, such contributions shall be treated as a subject employer's contributions required from him. As used in this Act, except when the context clearly requires otherwise, the term contributions shall include the contributions of workers pursuant to this Section.

(2) Every employing unit which has elected to become subject to this Act or to cease to be subject to this Act, pursuant to the provisions of Section 6, shall post and maintain printed notices of such election on its premises, of such design, in such numbers and at such places as the Commission may determine to be necessary to give notice thereof to its workers.

(3) Contributions by workers, payable to the fund as herein provided, shall be exempt from garnishment, assignment, attachment, execution, or any other remedy for the collection of debts.

### COLLECTION OF CONTRIBUTIONS

§ 8. (a) Penalties on past due contributions. Contributions unpaid on the date on which they are due and payable, as prescribed by the Commission, shall be subject to a penalty at the rate of one (1) per centum per month or fraction thereof from and after such date until payment is received by the Commission. Penalties collected pursuant to this subsection shall be paid into the fund's pooled account.

(b) Collection. If, after due notice, any subject em-

ployer defaults in any payment of contributions or penalties thereon, the amount due shall be collected by civil action in the name of the State, and the subject employer adjudged in default shall pay the costs of such action. Civil actions brought under this Section to collect contributions or penalties thereon from a subject employer shall be heard by the court at the earliest possible date and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this Act and cases arising under the Workmen's Compensation Law of this State.

(c) Priorities under legal dissolutions or distributions. In the event of any distribution of a subject employer's assets pursuant to an order of any court under the laws of this State, including any receivership, assignment for benefit of creditors, adjudicated insolvency, composition or similar proceeding, or any other dissolution, or pursuant to an adjudication in bankruptcy, judicially confirmed extension proposal, or composition, the Commission shall have a lien superior to all other liens except liens for taxes, upon all property, real, personal and mixed, tangible and intangible, owned by such employer at the time such employer becomes subject to the payment of contributions, against which lien no exemption shall be pleaded.

(d) Refunds. If, not later than one year after the date on which any contributions or penalties thereon became due, or are paid, an employing unit which has paid such contributions or penalties thereon shall make application for an adjustment thereof in connection with subsequent contribution payments or for a refund thereof because such adjustment cannot be made, and the Commission shall determine that such contributions or penalties or any portion thereof was erroneously collected, the Commission shall allow such employing unit to make an adjustment thereof, without interest, in connection with subsequent contribution payments by it; or if such adjustment cannot be made, the Commission shall re-

fund said amount, without interest, from the fund. For like cause and within the same period, adjustment or refund may be so made on the Commission's own initiative.

### ELIGIBILITY FOR BENEFITS

§ 9. (a) Conditions of eligibility. A totally or partially unemployed worker shall be eligible for benefits with respect to any week only if it has been found by the Commission that:

(1) He has made a claim for benefits in accordance with the provisions of Section 11 (a) of this Act;

(2) He has registered with respect to such week for work at an employment office in accordance with regulations prescribed by the Commission;

(3) He is physically and mentally able to work, and if totally unemployed is available for work;

(4) Prior to any week for which he claims benefits he has been totally unemployed for a waiting period of three weeks (and for the purposes of this subsection, two weeks of partial unemployment shall be deemed to be equivalent to one week of total unemployment). Such weeks of total or partial unemployment, or both, need not be consecutive. No week shall be counted as a week of total unemployment for the purposes of this subsection:

(A) Unless it occurs within the twenty-six consecutive weeks preceding the week for which he claims benefits, provided that this requirement shall not interrupt the payment of benefits for consecutive weeks of unemployment; and provided, further, that no worker shall be required to accumulate more than three additional waiting period weeks during a benefit year;

(B) If benefits have been paid with respect thereto;

(C) Unless the worker was eligible for benefits with respect thereto in all respects except for the requirements of paragraphs (1) and (5) of this subsection and of paragraph (6) of subsection (b) of this Section;

(D) Unless it occurs after benefits first could become payable to any worker under this Act.

(5) He has within the first four out of the last five completed calendar quarters immediately preceding the first day of his benefit year, earned wages for covered employment by subject employers equal to not less than Two Hundred Dollars.

(b) Disqualifications. A totally or partially unemployed worker shall not be eligible for benefits:

(1) For the week in which he has left his most recent work voluntarily and without good cause, if so found by the Commission, and for not less than two nor more than the nine weeks which immediately follow such week, as determined by the Commission according to the circumstances in each case;

(2) For the week in which he has been discharged for misconduct connected with his most recent work, if so found by the Commission, and for not less than two nor more than the nine weeks which immediately follow such week, as determined by the Commission in each case according to the seriousness of the misconduct, provided that for the purpose of this subsection legitimate activity in connection with labor organizations shall not be construed as misconduct;

(3) If the Commission finds that he has failed without good cause either to apply for available, suitable work when so directed by the employment office or the Commission, or to accept suitable work when offered him, or to return to his customary self-employment when so directed by the Commission. Such ineligibility shall continue for the week in which such failure occurred and for not less than two nor more than the nine weeks of continuous unemployment which immediately follow such week as determined by the Commission according to the circumstances in each case.

In determining whether or not any work is suitable for a worker the Commission shall consider the degree of risk involved to his health, safety and morals, his physical fitness



and prior training; his experience and prior earnings; his length of unemployment and prospects for securing local work in his customary occupation and the distance of the available work from his residence.

Notwithstanding any other provisions of this Act, no work shall be deemed suitable, and benefits shall not be denied under this Act to any otherwise eligible worker for refusing to accept new work under one or more of the following conditions:

(A) If the position offered is vacant due directly to a strike, lockout or other labor dispute;

(B) If the wages, hours or other conditions of the work offered are substantially less favorable to the worker than those prevailing for similar work in the locality;

(C) If, as a condition of being employed, the worker would be required to join a company union or to resign from or refrain from joining any bona fide labor organization.

(4) If he has left (or partially or totally lost) his employment with an employer because of a strike or other bona fide labor dispute, for any week in which such strike or other bona fide labor dispute is in active progress in the establishment in which he is or was employed, provided that for the purposes of this subsection a lock-out shall not be deemed a strike or a bona fide labor dispute and no worker shall be denied benefits by reason of a lock-out.

(5) For any week with respect to which he has received or is seeking unemployment compensation under an unemployment compensation law of another state or of the United States, except as otherwise provided by an arrangement between Kentucky and such state or the United States under Section 13 or subsection (j), paragraph (5) (E) of Section 3 of this Act.

(6) For any week with respect to which the worker is receiving or has received remuneration in any of the following forms; provided, that if such remuneration is less than the benefits which would otherwise be due under this Act, he shall

be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration;

(A) Wages in lieu of notice, or any payment by the way of compensation for the loss of wages through an employee pension plan;

(B) Compensation for temporary disability under the Workmen's Compensation Law of any state or under a similar law of the United States; or

(C) Old Age Benefits under Title II of the Social Security Act, as amended, or similar payments under any Act of Congress.

(7) If the Commission finds, after fair hearing, that he has knowingly made a false statement to establish his right to or the amount of his benefit. Such ineligibility shall continue for the week in which such false statement was made and for not less than two nor more than the nine weeks of continuous unemployment which immediately follow such week, as determined by the Commission according to the circumstances in each case.

## BENEFITS

§ 10. (a) Payment of Benefits. On and after January 1, 1939, benefits shall become payable to any worker who thereafter is or becomes totally unemployed and eligible for benefits for total unemployment. On and after January, 1940, benefits shall become payable to any worker who thereafter is or becomes partially unemployed and eligible for benefits for partial unemployment.

All benefits shall be paid through employment offices, or such other agencies as the Commission may be regulation designate, in accordance with such regulations as the Commission may prescribe.

(b) Advancement of date for Payment of partial benefits. If, after allowing all interested parties reasonable opportunity for a fair hearing, the Commission finds that the payment of partial benefits at a date earlier than January 1,

1940, is necessary for the achievement of the purposes of this Act, benefits for partial unemployment shall become payable at such earlier date, not before July 1, 1939, as the Commission may find necessary.

(c) Weekly Benefit Amount for Total Unemployment. Each eligible worker who is totally unemployed in any one week shall be paid, with respect to such week, benefits at the rate of fifty per centum of his full-time weekly wage, computed to the next highest multiple of ten cents but not more than Fifteen Dollars nor less than Four Dollars per week. There shall be deducted from the weekly benefit amount so determined four-fifths of that part of remuneration payable to such worker with respect to such week for odd-jobs and subsidiary work which is in excess of Three Dollars.

(d) Weekly Benefit for Partial Unemployment. Each eligible worker who is partially unemployed in any week shall be paid with respect to such week a partial benefit. Such partial benefit shall be an amount equal to the difference between his weekly benefit amount as defined in subsection (c) of Section 3 and four-fifths of his wages. As used in this subsection, the term "wages" shall not include that part of remuneration for odd-jobs and subsidiary work which is less than Three Dollars.

(e) Full Time weekly wage. The full-time weekly wage of any worker shall be deemed to be one-thirteenth of his total wages for covered employment by subject employers during that quarter in which such total wages were second highest during the first eight of the last nine completed calendar quarters immediately preceding the date with respect to which a worker's full-time weekly wage is determined, exclusive of any calendar quarter which occurs prior to January 1, 1937. The full-time weekly wage of a worker may be determined and re-determined at such reasonable times as the Commission may find necessary to administer this Act and may by regulation prescribe.

(f) Duration of Benefits. The Commission shall com-

pute wage credits for each worker by crediting him with the wages earned by him for covered employment by subject employers during each calendar quarter, or Three Hundred and Ninety Dollars, whichever is the lesser. For the purposes of this Section and paragraph (5) of subsection (a) of Section 9 of this Act, wages shall be counted for benefit purposes with respect to any week for which benefits are claimed, only if the employing unit from which such wages were earned has satisfied the conditions of subsection (1) of Section 3 or Section 6 (c) with respect to becoming subject to this Act. Benefits paid to any eligible worker shall be charged, in the same chronological order as such wages were earned, against one-sixth of his wage credits which are based upon wages earned, during his base period and which have not been previously charged hereunder. The maximum total amount of benefits payable to any eligible worker during any benefit year shall not exceed which ever is the lesser of: first, fifteen times his weekly benefit amount; and, second, one-sixth of such uncharged wage credits with respect to his base period.

(g) Reduction of benefits for certain groups.

(1) Seasonal workers.

(A) As used in this Section, the term "seasonal industry" means an occupation or industry in which, because of the seasonal nature thereof, it is customary to operate only during a regularly recurring period or periods of less than forty weeks. The Commission shall, after investigation and hearing, determine, and may thereafter from time to time, redetermine the longest seasonal period or periods during which, by the best practice of the occupation or industry in question, operations are conducted. Until such determination by the Commission, no occupation or industry shall be deemed seasonal.

(B) As used in this Section, the term "seasonal worker" means a worker who is ordinarily engaged in a seasonal industry and who, during the portion or portions of the year

when such industry is not in operation, is ordinarily not engaged in any other covered employment.

(2) Part-time workers. As used in this Section the term "part-time worker" means a worker whose normal work is in an occupation in which the Commission finds that his services are not required for the customary scheduled full-time hours prevailing in the establishment in which he is employed or who, owing to personal circumstances, does not customarily work the customary scheduled full-time hours prevailing in the establishment in which he is employed.

(3) The Commission shall prescribe fair and reasonable general rules applicable to seasonal and part-time workers respectively for determining the period for earning and the amount of the total wages required to qualify such workers for benefits, the amounts of such benefits, and the period for which such benefits shall be payable to them. The Commission may prescribe fair and reasonable general rules with respect to such other matters relating to benefits for seasonal and part-time workers as the Commission finds necessary and consistent with the policy and purposes of this Act.

### CLAIM FOR BENEFITS

§ 11. (a) Filing. Claims for benefits shall be made in accordance with such regulations as the Commission may prescribe.

(b) Notice to workers. Each subject employer shall post and maintain in places readily accessible to his workers, printed statements concerning such regulations or such matters as the Commission may prescribe. Each subject employer shall make available to his workers copies of such printed statements and such materials relating to claims for benefits as the Commission may prescribe. Such printed statements and material shall be supplied by the Commission without cost to the employer or workers.

(c) Initial determination. An examiner designated by the Executive Director shall take the claim. An initial deter-



mination thereon shall be made promptly, and shall include a determination with respect to whether or not benefits are payable, the week with respect to which benefits shall commence, the weekly benefit amount payable, and the maximum duration of benefits. In any case in which the payment or denial of benefits will be determined by the provisions of paragraph (4) of Section 9 (b) of this Act, the examiner shall promptly transmit all the evidence with respect to that paragraph to the Commission, which, on the basis of the evidence so submitted and such additional evidence as it may require, shall make an initial determination with respect thereto or may delegate the same to a specially designated agent to make such determination. An initial determination may for good cause be reconsidered. The claimant, the employer or employers against whose reserve account such benefits are chargeable and any other parties to the determination shall be promptly notified of the initial determination (or of any amended initial determination) and the reasons therefor. Benefits shall be denied, or if the claimant is otherwise eligible, promptly paid in accordance with the initial determination except as hereinafter otherwise provided. The claimant or any party to the determination may file with the Commission an appeal from such initial determination within seven days after notification thereof, or after the date such notification was mailed to his last known address. If upon such initial determination, benefits are allowed, but the record of the case indicates that a disqualification has been alleged or may exist, benefits shall not be paid prior to the expiration of the period for appeal as hereinbefore provided. If an appeal is duly filed with respect to a matter other than the weekly benefit amount or maximum duration of benefits payable, benefits with respect to the period prior to the final decision of the Commission shall be paid only after such decision; provided, that if a referee affirms an initial determination allowing benefits, such benefits shall be paid regardless of any appeal which may thereafter be taken and provided further

that if benefits are paid pursuant to a decision which is finally reversed in subsequent proceedings with respect thereto, no employer's account shall be charged with benefits so paid, but such benefits shall be charged against the pooled account. If subsequent to such initial determination benefits with respect to any week for which a claim has been filed are denied for reasons other than matters included in the initial determination, the claimant shall be promptly notified of the denial and the reasons therefor and may appeal therefrom in accordance with the procedure herein prescribed for appeals from initial determination.

(d) Appeals. Unless such appeal is withdrawn, a referee, after affording the parties reasonable opportunity for fair hearing, shall affirm or modify the findings of fact and initial determination. The parties shall be duly notified of such referee's decision, together with the reasons therefor, which shall be deemed to be the final decision of the Commission, unless within ten days after the date of notification or mailing of such decision, further appeal is initiated pursuant to subsection (f) of this Section.

(e) Referees. The Commission shall appoint one or more impartial referees, selected in accordance with Section 4 (g) of this Act, to hear and decide appealed claims.

(f) Commission review. The Commission may on its own motion affirm, modify, or set aside any decision of a referee on the basis of the evidence previously submitted in such case, or direct the taking of additional evidence, or may permit any of the parties to such decision to initiate further appeals before it. The Commission may remove to itself or transfer to another referee the proceedings on any claim pending before a referee. Any proceeding so removed to the Commission shall be heard and determined by the entire Commission composed of three members, except that no member of the Commission shall participate in any case in which he is an interested party, and the Chairman shall act alone in the absence or disqualification of any other member. The

Commission shall promptly notify the parties to any proceedings of its findings and decisions.

(g) Procedure. The manner in which appealed claims shall be presented and the conduct of hearings and appeals shall be in accordance with regulations prescribed by the Commission for determining the rights of the parties, such hearings to be conducted in a summary manner. A full and complete record shall be kept of all proceedings in connection with an appealed claim. All testimony at any hearing upon an appealed claim shall be recorded, but need not be transcribed unless the claim is further appealed. No examiner, referee or member of the Commission shall participate in any hearing in which he is an interested party.

(h) Witness fees. Witnesses subpoenaed pursuant to this Section shall be allowed fees at a rate fixed by the Commission. Such fees and all expenses of proceedings involving disputed claims shall be deemed a part of the expense of administering this Act.

(i) Appeals to courts. Any decision of the Commission, in the absence of an appeal therefrom as herein provided, shall become final twenty days after the date thereof; and judicial review thereof shall be permitted only after any party claiming to be aggrieved thereby has exhausted his remedies before the Commission, as provided by this Act. The Commission shall be deemed to be a party to any judicial action involving any such decision, and may be represented in any such judicial action by any qualified attorney who is designated by the Commission for that purpose, or at the request of the Commission, by the Attorney General.

(j) Court review. Within twenty days after the decision of the Commission has become final, any party aggrieved thereby may secure judicial review thereof by filing against the Commission for the review of its decision, a petition in the Circuit Court of the County in which the claimant was last employed by a subject employer whose reserve account is affected by such claims, in which action any other party to

the proceeding before the Commission shall be made a defendant. Such petition shall state fully the grounds upon which review is sought, assign all errors relied on, and shall be verified by the petitioner, who shall furnish copies thereof for each defendant to the Commission, who shall deliver one such copy to each of such defendants. Summons shall issue upon the petition directing the Commission to file answer within fifteen days after service thereof; such summons shall be served upon a member of the Commission, or upon such person as the Commission may designate, and such service shall be deemed complete service upon all members of the Commission. With its answer, the Commission shall certify and file with the Court all documents and papers, and a transcript of all testimony taken in the matter, and orders made therein, together with its findings of fact and decision therein; provided, however, that if consented to by the petitioner and the adverse party, an abstract of any portion of the record may be certified by the Commission in lieu of certifying such portion of the record in full. The Commission may also, in its discretion, certify to such Court questions of law involved in any decision by it.

Such action, and the questions so certified, shall be heard by the Court in a summary manner upon the record certified by the Commission. The Court shall enter judgment affirming, modifying, or setting aside the order and decision appealed from, or determining the question of law certified to it by the Commission, and may in advance of judgment, in its discretion, remand the case to the Commission for further proceedings in accordance with the direction of the Court. An appeal may be taken from the decision of the Circuit Court to the Court of Appeals, in the same manner but not inconsistent with the provisions of this Act, as is provided in equity cases. It shall not be necessary, in any judicial proceeding under this Section, to enter exceptions to the rulings of the Commission, and no bond shall be required for entering such appeal. Upon the final determination of such judicial pro-



ceeding, the Commission shall enter an order in accordance with such determination. A petition for judicial review shall not act as a supersedeas or stay unless the Commission shall so order.

### PROTECTION OF RIGHTS AND BENEFITS

§ 12. (a) Waiver of rights void. No agreement by a worker to waive, release, or commute his rights to benefits or any other rights under this Act shall be valid. No agreement by a worker or by workers to pay all or any portion of a subject employer's contributions, required under this Act from such subject employer, shall be valid. No subject employer shall directly or indirectly make or require or accept any deductions from wages to finance the subject employer's contributions required of him, or require or accept any waiver by a worker of any right hereunder. Any subject employer, or officer or agent of a subject employer, who violates any provision of this subsection shall be deemed guilty of a misdemeanor and upon conviction shall, for each offense, be fined not less than One Hundred Dollars nor more than One Thousand Dollars, or be imprisoned for not more than six months, or both.

(b) Limitation of fees. No worker claiming benefits shall be charged fees of any kind in any proceeding under this Act by the Commission or its representatives. Any worker claiming benefits in any proceeding before the Commission or a court may be represented by counsel or other duly authorized agent; but no such counsel or agent shall either charge or receive for such service more than an amount approved by the Commission. Any person who violates any provision of this subsection shall be deemed guilty of a misdemeanor and, upon conviction, shall, for each such offense, be fined not less than Fifty Dollars nor more than Five Hundred Dollars, or imprisoned for not more than six months, or both.

(c) No assignment of benefits. Exemptions. No as-



signment, pledge or encumbrance of any right to benefits which are or may become due or payable under this Act shall be valid; and such rights to benefits shall be exempt from levy, execution, attachment, or any other remedy whatsoever provided for the collection of debt. Benefits received by any worker, as long as they are not mingled with other funds of the recipient, shall be exempt from any remedy whatsoever for the collection of all debts except debts incurred for necessities furnished to such worker or his spouse or dependents during the time when such worker was unemployed. No waiver of any exemption provided for in this subsection shall be valid.

### RECIPROCAL ARRANGEMENTS

§ 13. The Commission may enter into administrative arrangements with the agencies of other states or the Federal Government similarly charged with the administration of unemployment compensation laws, for the purpose of assisting the Commission and such agencies in paying benefits under the several laws to workers while outside their territorial jurisdictions. Such arrangements may provide that the respective state agencies shall, for and on behalf of each other, act as agents in effecting registrations for work, notices of unemployment, and any other certifications or statements relating to a worker's claim for benefits, in making investigations, taking depositions, holding hearings, or otherwise securing information relating to benefit eligibility and payments; and in such other matters as the Commission may consider suitable in effectuating the purpose of these administrative arrangements.

The Commission is hereby authorized to enter into arrangements with the appropriate agencies of other states or the Federal Government whereby workers performing services in this and other States for a single employing unit under circumstances not specifically provided for in Section 3 (j) of this Act, or under similar provisions in the unemployment

compensation laws of such other states, shall be deemed to be engaged in employment performed entirely within this State or within one of such other states.

### UNEMPLOYMENT INSURANCE FUND

§ 14. (a) Establishment and control. There is hereby established a special fund to be known as the Unemployment Insurance Fund which shall be administered separate and apart from all public moneys or funds of the State. This fund shall consist of:

(1) All contributions and moneys collected under this Act, together with any penalties thereon collected pursuant to Section 8 of this Act;

(2) All fines and penalties collected pursuant to the provisions of this Act;

(3) Interest earned upon any moneys in the fund;

(4) Any property or securities acquired through the use of moneys belonging to the fund; and

(5) All earnings of such property or securities.

Subject to the provisions of this Act, the Commission is vested hereby with full power, authority, and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts, whether or not herein specifically designated, which are necessary or convenient in the administration thereof consistent with the provisions of this Act.

(b) Accounts and deposits. The State Treasurer shall be ex officio the treasurer and custodian of the fund. He shall administer such fund in accordance with the directions of the Commission and shall pay all vouchers approved by the Department of Finance and drawn upon the fund in accordance with such regulations as the Commission shall prescribe. He shall maintain within the fund three separate accounts:

(1) A clearing account;

(2) An unemployment trust fund account; and

(3) A benefit account.

All moneys payable to the fund, upon receipt thereof by the Commission, shall be forwarded to the Treasurer, who shall immediately deposit them in the clearing account. Refunds payable pursuant to Section 8 (d) of this Act may be paid from the clearing account upon warrants issued by the Treasurer under the direction of the Commission. After clearance thereof, all other moneys in the clearing account shall be immediately deposited with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the Unemployment Trust Fund, established and maintained pursuant to Section 904 of the Social Security Act, as amended, any provisions of the law in this State relating to the deposit, administration, release, or disbursement of moneys in the possession or custody of this State to the contrary notwithstanding.

The benefit account shall consist of all moneys requisitioned from the State's account in the Unemployment Trust Fund. Except as herein otherwise provided, moneys in the clearing and benefit accounts may be deposited by the Treasurer, under the direction of the Commission, in any bank or public depository in which general funds of the State may be deposited, but no public deposit insurance charge or premium shall be paid out of the fund. The State Treasurer shall give a separate bond conditioned upon the faithful performance of his duties as custodian of the fund in an amount to be fixed by the Commission and approved by the Governor, and in a form prescribed by law and approved by the Attorney General. Premiums for the said bond shall be paid as provided in Section 5 (a) of this Act.

(c) Withdrawals. Moneys shall be requisitioned from the State's account in the Unemployment Trust Fund solely for the payment of benefits and in accordance with regulations prescribed by the Commission. The Commission, through the State Treasurer acting as its fiscal agent, shall from time to time requisition from the Unemployment Trust Fund such amounts, not exceeding the amounts standing to

this State's accounts therein, as it deems necessary for the payment of benefits for a reasonable future period.

Upon receipt thereof the Treasurer shall deposit such moneys in the benefit account and shall issue his vouchers for the payment of benefits solely from such benefit account. Expenditures of such moneys in the benefit account shall not be subject to any provisions of law requiring specific appropriations or other formal release by State officers of moneys in their custody. All vouchers issued by the Treasurer for the payment of benefits and refunds shall bear the signature of the Treasurer and the approval in writing of the Commissioner of Finance. Any balance of moneys requisitioned from the Unemployment Trust Fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates for, and may be utilized for the payment of, benefits during succeeding periods, or, in the discretion of the Commission, shall be redeposited with the Secretary of the Treasury of the United States of America, to the credit of this State's account in the Unemployment Trust Fund, as provided in subsection (b) of this Section.

(d) Management of funds upon discontinuance of Unemployment Trust Fund. The provisions of subsections (a), (b), and (c) of this Section, to the extent that they relate to the Unemployment Trust Fund, shall be operative only so long as such Unemployment Trust Fund continues to exist and so long as the Secretary of the Treasury of the United States of America continues to maintain for this State a separate book account of all funds deposited therein by this State for benefit purposes, together with this State's proportionate share of the earnings of such Unemployment Trust Fund, from which no other state is permitted to make withdrawals. If and when such Unemployment Trust Fund ceases to exist, or such separate book account is no longer maintained, all moneys, properties, or securities therein, belonging to the Unemployment Insurance Fund of this State shall be trans-

ferred to the Treasurer of the Unemployment Insurance Fund, who shall hold, invest, transfer, sell, deposit and release such moneys, properties, or securities in a manner approved by the Commission and the Department of Finance, in accordance with the provisions of this Act; provided that such moneys shall be invested in the following readily marketable classes of securities: bonds or other interest-bearing obligations of the United States of America; and provided further, that such investment shall at all times be so made that all the assets of the fund shall always be readily convertible into cash when needed for the payment of benefits. The State Treasurer shall dispose of securities or other properties belonging to the Unemployment Insurance Fund only under the direction of the Commission and the Commissioner of the Department of Finance.

#### EMPLOYER RESERVE ACCOUNTS AND POOLED ACCOUNT

##### § 15. (a) Employer Reserve Accounts.

(1) The Commission shall maintain within the fund a separate reserve account for each subject employer, and shall credit to such account the total amount of all contributions paid by such employer on his own behalf under the Unemployment Compensation Law of 1936, and all contributions paid by such employer on his own behalf under this Act except as provided in subsection (f) of this Section.

(2) The liability of each such account shall be limited to the payment of benefits based upon wages payable for covered employment by such subject employer. Benefits paid to an eligible worker shall be charged against the accounts of his most recent subject employers, against whose accounts the maximum charges hereunder have not previously been made, in the inverse chronological order in which the employment of such worker occurred. The maximum amount so charged against the account of any subject employer shall not exceed one-sixth of the wages payable to such worker



by such subject employer for covered employment which occurs on and after the first day of such worker's base period, but shall not be more than Sixty-five Dollars per completed calendar quarter or portion thereof, which occurs on and after said first day of such worker's base period. The Commission shall by general rules prescribe the manner in which benefits shall be charged against the accounts of several subject employers for whom a worker performed covered employment during the same quarter.

(3) Each subject employer's reserve account shall, unless terminated or completely exhausted, be charged with all benefits chargeable, as provided in this Act, against wages payable for covered employment by such subject employer. A subject employer's reserve account shall be deemed to be terminated if such subject employer has ceased to be subject to this Act, and his account has been closed and any balance remaining therein has been credited to the fund's pooled account.

(b) **Joint Accounts.** Whenever two or more subject employers file an application with the Commission to mingle their single reserve accounts in a joint reserve account, as if they constituted a single subject employer, the Commission may in its discretion establish and maintain such joint account as if it were a single account, subject to such general rules for the establishment, conduct and dissolution of joint accounts as the Commission may prescribe.

(c) **Successive employer's reserve account.** Any individual or employing unit which acquires an organization, trade or business from a subject employer for whom a reserve account has been maintained by the Commission as herein provided, shall immediately notify the Commission thereof, and shall assume the position of such subject employer with respect to the resources and liabilities of such reserve account determined for the purpose of this Act by the Commission after appropriate notice and opportunity to be

heard, as if no change with respect to such subject employer's reserve account had occurred.

(d) Voluntary contributions by employers. Any subject employer may at any time make voluntary payments, additional to the contributions required under this Act, to his reserve account, pursuant to the general rules established by the Commission.

(e) Pooled account.

(1) The Commission shall maintain within the fund a pooled account, mingled and undivided, to which shall be credited:

(A) The total amount allocated to the pooled account under the Unemployment Compensation Law of 1936, and all contributions paid by workers under this Act;

(B) The emergency amounts diverted from the subject employers' contributions as provided in subsection (f) of this Section;

(C) All realized earnings and gains on investments of the fund;

(D) Any balance remaining in the reserve account of any previously subject employer two years after such employer has ceased to be subject to this Act;

(E) All fines, penalties and interest on delinquent contributions collected under this Act;

(F) Any payments into or amounts in the fund not allocable to any employer's reserve account.

(2) Except as provided in Section 11 (c) benefits shall be charged against the pooled account only if and to the extent that a subject employer's reserve account does not equal the maximum amount of benefits then due and chargeable against such account as provided in this Act. To the extent that moneys in the pooled account are sufficient therefor, the Commission shall pay any benefits otherwise due but not payable because of the complete exhaustion of a subject employer's reserve account. Benefits paid or supplemented from the fund's pooled account shall be charged against the

recipient's wages payable for covered employment by subject employers in accordance with the provisions of Section 10 (f) of this Act.

(f) Emergency diversion to the pooled account. If, on January 1st or July 1st of any year, the amount in the pooled account is less than three times the highest total amount of benefits paid from such account during any one of the preceding three calendar years, the Commission shall have power to declare, with respect to the six months beginning on such January 1st or July 1st, an emergency period. During such period, one per centum of the wages upon which the subject employers' contributions are paid shall be paid into the pooled account from such contributions. During such period, the force and effect of any section of this Act shall be suspended, if such section provides that any subject employer may contribute less than one per centum of the wages payable by him for covered employment, and every subject employer shall contribute at least one per centum of such wages to the pooled account.

### PENALTIES

§ 16. (a) Penalties with respect to claims for benefits. Whoever makes a false statement or representation, knowing it to be false, or knowingly fails to disclose a material fact, to obtain or increase any benefit or payment under this Act, either for himself or for any other person, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Ten Dollars nor more than Fifty Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment. Each such false statement or representation, or failure to disclose a material fact shall constitute a separate offense.

(b) Penalties on employers. Any employing unit, or any officer or agent of an employing unit or any other person who makes a false statement or representation knowing it to be false, or who knowingly fails to disclose a material fact,

to prevent or reduce the payment of benefits to any worker entitled thereto, or to avoid becoming or remaining subject thereto or to avoid or reduce any contribution or other payment required from an employing unit under this Act, or who willfully fails or refuses to furnish any reports required hereunder, or to produce or permit the inspection or copying of records as required hereunder, shall be deemed guilty of a misdemeanor, and upon conviction shall be punished by a fine of not less than Ten Dollars nor more than Fifty Dollars, or by imprisonment for not longer than thirty days, or by both such fine and imprisonment. Each such false statement, or representation, or failure to disclose a material fact, and each day of such failure or refusal shall constitute a separate offense.

(c) General penalty. Any person who shall willfully violate any provisions of this Act or any rule or regulation thereunder, the violation of which is made unlawful or the observance of which is required under the terms of this Act, and for which a specific penalty is neither prescribed herein nor provided by any other applicable statute, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than Ten Dollars nor more than Fifty Dollars, and each day such violation continues shall be deemed to be a separate offense.

(d) Repayment of undeserved benefits. Any person who, by reason of the non-disclosure or misrepresentation by him or by another of a material fact (irrespective of whether such non-disclosure or misrepresentation was known or fraudulent), has received any sum as benefits under this Act while any conditions for the receipt of benefits imposed by this Act were not fulfilled in his case, or while he was disqualified from receiving benefits, shall in the discretion of the Commission, either be liable to have such sum deducted from any future benefits payable to him under this Act or shall be liable to repay to the Commission for the Unemployment Insurance Fund, a sum equal to the amount so received by him and such

sum shall be collectible in the manner provided in Section 8 (b) of this Act for collection of past due contributions, and such amounts shall be created to the accounts against which it was improperly charged.

### REPRESENTATION IN COURT

§ 17. (a) In civil action. In any civil action to enforce the provisions of this Act the Commission and the State may be represented by any qualified attorney who is designated by the Governor or, who is employed by the Commission and is designated by it for this purpose or at the Commission's request, by the Attorney General. In case the Commission designates special counsel to defend, on behalf of the State, the validity of this Act, the expenses and compensation of such special counsel and of any experts employed by the Commission in connection with such proceedings, may be charged to the Unemployment Compensation Administration Fund.

(b) In criminal action. All criminal actions for violation of any provisions of this Act, or of any rules or regulations issued pursuant thereto, shall be prosecuted by the Attorney General of the State, or at his request and under his discretion, by the county attorney of any county in which the employing unit has a place of business or the violator resides.

### NON-LIABILITY OF STATE

§ 18. Benefits shall be deemed to be due and payable under this Act only to the extent provided in this Act and to the extent that moneys are available therefor to the credit of the Unemployment Insurance Fund, and neither the State nor the Unemployment Compensation Commission shall be liable for any amount in excess of such sums.

### CONTINUATION

§ 19. The Unemployment Compensation Commission and personnel, organization and funds thereof, provided by this



Act shall be deemed a continuation of the analogous Commission and personnel, organization and funds thereof set up by the Unemployment Compensation Law of 1936.

Nothing in this Act shall be construed to waive any payments required of any employer with respect to the years 1936 and 1937 under the provisions of the Unemployment Compensation Law of 1936.

Wages payable to an individual with respect to the calendar year 1937 for employment by employers under the Unemployment Compensation Law of 1936 shall be deemed to be wages for covered employment by subject employers for the purposes of Section 10 of this Act.

#### SAVING CLAUSE

§ 20. The General Assembly reserves the right to amend, re-enact or repeal all or any part of this Act at any time; and there shall be no vested right of any kind against such amendment, re-enactment or repeal. All the rights, privileges, or immunities conferred by this Act or by acts done pursuant thereto shall exist subject to the power of the General Assembly to amend or repeal this Act at any time.

In the event that the Social Security Board does not, for any fiscal year make the certification for payment to the State of Kentucky of funds for the assistance of this State in the administration of this Act, as provided by Title III of the Federal Social Security Act, or any amendments thereto, every employer subject to this Act shall, for such fiscal year, pay to the Unemployment Compensation Administration Fund, to be used for the administration of this Act, contributions equal to three-tenths of one per centum of such subject employer's wages payable for covered employment for the same period, such addition contributions being collected in the same manner as contributions for the payment of benefits.

(Continued to Volume II.)





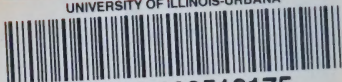








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